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Bengal Legislative Council

Fortieth Session, 1932

28th to 30th November, 1st, 5th, 7th, 12th,
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GOVERNOR OF BENGAL.

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MR. RAZAUR RAHMAN KHAN, B.L.

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3. Mr. W. H. THOMPSON.
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Assistant Secretary to the Council—[Vacant.]

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ALPHABETICAL LIST OF MEMBERS.

A

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Ali, Maulvi Syed Nausher. [Jessore South (Muhammadan).]
Ali, Mr. Altaf. [Bogra (Muhammadan).]
Armstrong, Mr. W. L. [Presidency and Burdwan (European).]
Austin, Mr. J. M. (Bengal Chamber of Commerce.)

B

Baksh, Maulvi Shaik Rahim. [Hooghly *cum* Howrah Municipal (Muhammadan).]
Baksh, Maulvi Syed Majid. [Jessore North (Muhammadan).]
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Bal, Rai Sahib Sarat Chandra. [Faridpur South (Non-Muhammadan.)]
Ballabh, Rai Bahadur Debendra Nath. [24-Parganas Rural North (Non-Muhammadan).]
Banerji, Mr. P. [24-Parganas Rural South (Non-Muhammadan).]
Banerji Rai Bahadur Keshab Chandra. [Dacca Rural (Non-Muhammadan).]
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Bural, Babu Gokul Chand. [Calcutta South Central (Non-Muhammadan).]
Burn, Mr. H. H. (Bengal Chamber of Commerce.)

C

Chatterjee, Mr. B. C., Bar.-at-Law. [Bakarganj North (Non-Muhammadan).]
Chaudhuri, Babu Kishori Mohan. [Rajshahi (Non-Muhammadan).]
Chaudhuri, Babu Siddeswar. (Expert, Nominated.)

Chaudhuri, Dr. Jogendra Chandra. [Bogra *cum* Pabna (Non-Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Alimuzzaman. [Faridpur North (Muhammadan).]

Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman. (Nominated Non-official.)

Chaudhuri, Maulvi Syed Osman Haider. [Tippera North (Muhammadan).]

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Chowdhury, Haji Badi Ahmed. [Chittagong South (Muhammadan).]

Chowdhury, Maulvi Abdul Ghani, B.L. [Dacca West Rural (Muhammadan).]

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Cooper, Mr. C. G. (Indian Jute Mills Association.)

D

Das, Rai Bahadur Kamini Kumar, M.B.E. [Chittagong (Non-Muhammadan).]

Das, Rai Bahadur Satyendra Kumar. [Dacca City (Non-Muhammadan).]

Dutt, Rai Bahadur Dr. Haridhan. [Calcutta Central (Non-Muhammadan).]

E

Eusufji, Maulvi Nur Rahman Khan. [Mymensingh South-West (Muhammadan).]

F

Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur. [Minister.] [Tippera South (Muhammadan).]

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Fazlullah, Maulvi Muhammad. [Noakhali West (Muhammadan).]

Forrester, Mr. J. Campbell. [Presidency and Burdwan (European).]

G

Gangali, Rai Bahadur Susil Kumar. (Nominated Official.)

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Ghose, Rai Bahadur Sasonka Comar, C.I.E. (Dacca University.)

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Guha, Mr. P. N. (Nominated Non-official.)
Gupta, Mr. J. N., C.I.E., M.B.E. [Bankura West (Non-Muhammadan).]

H

Hakim, Maulvi Abdul. [Mymensingh Central (Muhammadan).]
Haque, Khan Bahadur Maulvi Azizul. [Nadia (Muhammadan).]
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Hogg, Mr. G. P., C.I.E. (Nominated Official.)
Hooper, Mr. G. G. (Nominated Official.)
Hoque, Kazi Emdadul. [Rangpur East (Muhammadan).]
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Hossain, Maulvi Muhammad. [Bakarganj North (Muhammadan).]
Huq, Mr. A. K. Fazl-ul. [Bakarganj West (Muhammadan).]
Hussain, Maulvi Latafat. (Nominated Non-official.)

K

Karim, Maulvi Abdul. [Burdwan Division South (Muhammadan).]
Kasem, Maulvi Abul. [Burdwan Division North (Muhammadan).]
Khan, Khan Bahadur Maulvi Muazzam Ali. [Pabna (Muhammadan).]
Khan, Maulvi Tamizuddin. [Faridpur South (Muhammadan).]
*Khan, Mr. Razaur Rahman, B.L. [Dacca East Rural (Muhammadan).]

L

Lal Muhammed, Haji. [Rajshahi South (Muhammadan).]
Law, Mr. Surendra Nath. (Bengal National Chamber of Commerce.)
Leeson, Mr. G. W. (Bengal Chamber of Commerce.)

M

Maguire, Mr. L. T. (Anglo-Indian.)
Maiti, Mr. R. [Midnapore South (Non-Muhammadan).]
Mason, Mr. G. A. (Indian Jute Mills Association.)

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* Deputy President, Bengal Legislative Council.

McCluskie, Mr. E. T. (Anglo-Indian.)
Mitter, the Hon'ble Sir Provash Chunder, KT. C.I.E. (Member, Executive Council.)
Mittra, Babu Sarat Chandra. [24-Parganas Rural Central (Non-Muhammadan).]
Momin, Khan Bahadur Muhammad Abdul. [Noakhali East (Muhammadan).]
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N

Nag, Babu Suk Lal. [Khulna (Non-Muhammadan).]
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Nandy, Maharaja Sris Chandra, of Kasimbazar. (Bengal National Chamber of Commerce.)
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O

Ordish, Mr. J. E. [Dacca and Chittagong (European).]

P

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Poddar, Seth Hunuman Prosad. [Calcutta West (Non-Muhammadan).]
Prentice, the Hon'ble Mr. W. D. R., C.S.I., C.I.E. (Member, Executive Council.)

Q

Quasem, Maulvi Abul. [Khulna (Muhammadan).]

R

Raheem, Mr. A., C.I.E. [Calcutta North (Muhammadan).]
Rahman, Maulvi Azizur. [Mymensingh North-West (Muhammadan).]
Rahman, Mr. A. F. [Rangpur West (Muhammadan).]
Rahman, Mr. A. F. M. Abdur-. [24-Parganas Rural (Muhammadan)]

Raikat, Mr. Prosanna Deb. [Jalpaiguri (Non-Muhammadan).]
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Ray, Babu Khetter Mohan. [Tippera (Non-Muhammadan).]
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Ray Chowdhury, Babu Satish Chandra. [Mymensingh East (Non-Muhammadan).]
Ray Chowdhury, Mr. K. C. (Nominated Non-official.)
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Roy, Babu Haribansa. [Howrah Rural (Non-Muhammadan).]
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Roy, Mr. Saileswar Singh. [Burdwan North (Non-Muhammadan).]
Roy, Mr. Sarat Kumar. (Presidency Landholders.)
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Roy Choudhuri, Babu Hem Chandra. [Noakhali (Non-Muhammadan).]

S

Saadatullah, Maulvi Muhammad. [24-Parganas Municipal (Muhammadan).]
Sahana, Babu Satya Kinkar. [Bankura East (Non-Muhammadan).]
Samad, Maulvi Abdus. [Murshidabad (Muhammadan.)]
Sarker, Rai Sahib Rebati Mohan. (Nominated Non-official.)
Sen, Mr. B. R. (Nominated Official.)
Sen, Rai Bahadur Jogesh Chandra. [24-Parganas Municipal South, (Non-Muhammadan).]
Sen, Rai Sahib Akshoy Kumar. [Faridpur North (Non-Muhammadan).]
Sen Gupta, Dr. Naresh Chandra. [Mymensingh West (Non-Muhammadan).]
Shah, Maulvi Abdul Hamid. [Mymensingh East (Muhammadan).]
Singha, Mr. Arun Chandra. (Chittagong Landholders.)

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Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur. (Burdwan Landholders.)
Sircar, Dr. Sir Nilratan, KT., M.D. [Calcutta South (Non-Muhammadan).]
Solaiman, Maulvi Muhammad. [Barrackpore Municipal (Muhammadan).]
Stapleton, Mr. H. E. (Nominated Official.)
Suhrawardy, Mr. H. S. [Calcutta South (Muhammadan).]

T

Thompson, Mr. W. H. (Bengal Chamber of Commerce.)
Townend, Mr. H. P. V. (Nominated Official.)

W

Wilkinson, Mr. H. R., C.I.E. (Nominated Official.)
Woodhead, the Hon'ble Mr. J. A., C.I.E. (Member, Executive Council.)
Wordsworth, Mr. W. C. (Bengal Chamber of Commerce.)

THE BENGAL LEGISLATIVE COUNCIL PROCEEDINGS

(Official Report of the Fortieth Session.)

Volume XL—No. 2.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 28th November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 103 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Whipping in convictions in offences against women.

***27. Mr. S. M. BOSE:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state in how many convictions for rape during 1931-32 has a sentence of whipping been imposed?

(*b*) Have the Government come to a decision that the punishment by whipping has a salutary effect in offences against women?

(*c*) Has any circular been issued calling the attention of Magistrates to the provisions of the Whipping Act, 1909? If so, when?

(*d*) If the answer to (*c*) is in the negative, will the Hon'ble Member be pleased to state whether the Government are considering the desirability of issuing such a circular, having regard to the prevalence of offences against women?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) Five in 1931; no figures are available for 1932.

(*b*) The present Government have not had occasion to consider the general question.

(*c*) No. Save in the case of juvenile offenders, the only offence against women punishable with whipping is rape, which is exclusively triable by a Court of Session.

(*d*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: With reference to answer (*a*) does the Government mean that no sentence of whipping was imposed in 1932?

The Hon'ble Mr. W. D. R. PRENTICE: We have not got the figures for 1932 yet.

Retrenchment Committee's Report.

*28. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) the approximate amount of yearly saving proposed by the recommendations of the Retrenchment Committee; and

(*ii*) whether the Government intend accepting in full the recommendations of the Committee? If so, when?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*i*) The member is referred to the report of the Committee with a copy of which he has been supplied.

(*ii*) The member is referred to Government resolution No. 11099-F.B., dated the 19th November, 1932, which appeared in the *Calcutta Gazette*, dated the 24th November, 1932.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if he is able to give us an idea as to how long it will take Government to come to a decision in the matter?

The Hon'ble Mr. J. A. WOODHEAD: I think, Sir, I replied to a similar question the other day, that Government will try to come to a decision as quickly as possible.

Witness shed near Faridpur Judge's court compound.

*29. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that there is no witness shed near the court compound of the Faridpur Judge's court?

(*b*) Is it a fact that the witnesses are put to great inconvenience and trouble for want of such a shed?

(*c*) Are the Government considering the desirability of constructing such a shed near the Judge's court building?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Yes.

(*b*) No; witnesses are permitted to sit in the portico and the spacious verandahs on all sides of the court building which is two-storied and they are not inconvenienced in any way for want of a shed.

(*c*) Not at present; Government will be prepared to consider the matter when financial condition permits.

Mr. B. C. CHATTERJEE: In answer (*b*) it is said "witnesses are permitted to sit on the portico and the spacious verandahs on all sides of the court buildings": my question is: Is the Government prepared to consider the appointment of a sanitary inspector to see that the verandah is kept clean?

(No reply.)

Weights and measures.

***30. Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that various sorts of weights and measures (*katcha*, *pucca* and other kinds varying in weight and measurement) are being used in this country by shop-keepers; and

(*ii*) that inconvenience is often caused to customers, especially the minor and illiterate class?

(*b*) If so, are the Government considering the desirability of abolishing the use of different kinds of weights and measures in the country by any legislation or by any executive order?

(*c*) Will the Hon'ble Minister be pleased to state what sort of weights and measures (*katcha* or *pucca*) is in use in Government offices?

(*d*) How many *tolas* make the seer (unit of weights and measurement) in use in Government offices?

(*e*) Is the Hon'ble Minister aware that the Subdivisional Officer of Tangail (district Mymensingh) some time ago promulgated an order to the shop-keepers prohibiting the use of all *katcha* weights and measures and retaining only the *pucca* weights and measures in the subdivision?

(*f*) Are the Government considering the desirability of issuing instructions to all the District Magistrates for taking similar action throughout Bengal?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) (*i*) and (*ii*) Yes.

(*b*) Chapter XVIII of the new Municipal Act empowers municipal commissioners to take action on these lines. It is considered that until the results are seen no further legislation is advisable.

(*c*) It is understood that *pucca* weights and measures are used.

(*d*) 80.

(*e*) and (*f*) No.

Depressed class appointments in civil courts.

*31. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing for the years 1928 to 1931-

(*i*) how many clerks were appointed in the civil courts of Faridpur; and

(*ii*) how many of them belong to the depressed class of Hindus?

(*b*) Are the Government considering the desirability of appointing more clerks from the depressed class of Hindus?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) A statement is laid on the table.

(*b*) Under the instructions of Government already in force, the appointment of a larger proportion of members of the depressed classes among Hindus is entirely dependent on the number of suitable candidates who come forward.

Statement referred to in the reply to clause (a) of starred question No. 31, showing the number of clerks appointed in the civil courts of Faridpur from the depressed class of Hindus during 1928-31.

Number of clerks appointed in the civil courts of Faridpur—

1928—2.

1929—4.

1930—1.

1931—6.

Of the appointments, number belonging to the depressed class of Hindus—Nil.

Babu AMULYADHAN RAY: With reference to answer (b), will the Hon'ble Member be pleased to state whether he is under the impression that the depressed classes are wanting in suitable candidates?

The Hon'ble Mr. W. D. R. PRENTICE: It may not be so; but I do not think that their number is as large as that of any other community.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state who makes these appointments?

The Hon'ble Mr. W. D. R. PRENTICE: The civil courts are under the District Judges.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state on what basis these appointments are made—whether by competitive examination or by nomination by the District Judge?

The Hon'ble Mr. W. D. R. PRENTICE: Speaking subject to correction, I think it is by selection by the District Judge.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state the educational qualifications that are necessary for these appointments?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state the educational qualifications of those clerks who have already been appointed by the District Judge?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice.

Babu AMULYADHAN RAY: Is the Hon'ble Member aware that there are hundreds and hundreds of qualified candidates belonging to the depressed classes, who are now sitting idle?

The Hon'ble Mr. W. D. R. PRENTICE: I have no knowledge of local conditions.

Babu AMULYADHAN RAY: Does the Hon'ble Member require any suitable candidates from the depressed classes?

(No reply.)

***Rai Sahib SARAT CHANDRA BAL:** Will the Hon'ble Member be pleased to state whether there is a circular by which the District Officers are authorised to appoint depressed class candidates on certain conditions?

The Hon'ble Mr. W. D. R. PRENTICE: Yes. I think I informed the Council last year that a circular on the subject had been issued and that annual returns are called for in the matter.

Rai Sahib SARAT CHANDRA BAL: Will the Hon'ble Member be pleased to state what steps Government intend to take in cases where this circular is not complied with?

The Hon'ble Mr. W. D. R. PRENTICE: Where it is found that the circular is not observed Government will draw the attention of the responsible officers and insist on its being complied with.

Sale notices in local newspapers.

***32. Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether the practice of publishing rent execution sales in local vernacular newspapers has been discontinued?

(*b*) If so, what is the reason for such discontinuation?

(*c*) Before passing orders of discontinuation, did the Government consider that such abolition of the practice was likely to encourage collusion and fraudulent sales?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Yes.

(*b*) The member is referred to section 163 (*3*) of the Bengal Tenancy Act. Government do not consider it advisable to prescribe publication in newspapers.

(*c*) The discontinuance was not due to a Government order but to legislation.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Bengal Municipal Bill.

8. Rai Bahadur SATISH CHANDRA MUKHERJI: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the assent of the Governor General to the Bengal Municipal Bill passed at the last session of this Council has been received?

(*b*) Is it contemplated by Government to order wholesale election in all the municipalities in Bengal on the enforcement of the Act?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) No.

(*b*) Yes. A copy of the circular issued on this subject is laid on the table.

Circular referred to in answer to clause (b) of unstarred question No. 8.

Nos. 5318-5322 M., dated Calcutta, the 11th November, 1932.

From—H. P. V. Townend, Esq., I.C.S., Secretary to the Government of Bengal, Local Self-Government Department,

To—All Commissioners of Divisions.

Minister-in-charge: The Hon'ble Mr. Bijoy Prasad Singh Roy.

The Bengal Municipal Bill, 1932, as finally passed by the Legislative Council has introduced material changes, *e.g.*, the franchise of the electors has been widened, women have been enfranchised, the proportion of elected commissioners has been increased and the term of office of the commissioners has been extended from three to four years. The new Act will be published in the *Calcutta Gazette* and brought into force as soon as the assent of the Governor General has been communicated to this Government: this communication, it is hoped, will be received before the end of November, 1932.

2. Meanwhile I am directed to forward, in advance, a copy of the Bengal Municipal Act, 1932, and with reference to Chapter III relating to the constitution of municipalities, to communicate the following observations of Government:—

The Minister for Local Self-Government desires that in their own interests all municipalities should be reconstituted on a more democratic basis under the provisions of the new Act as soon as possible.

In order to enable this to be done, it is proposed to hold general elections under the new Act on the earliest possible date after it is brought into operation. It is hoped that the election may be held in March, 1933, and that the reconstitution of the municipalities may be completed before the end of May and afterwards to dissolve all existing bodies of municipal commissioners under section 24 of the Act. It is proposed to publish the necessary instructions for holding the first election in the issue of the *Calcutta Gazette* in which the new Act will be published for general information.

As will appear from section 16 *et seq.* of the Act, the introduction of a new constitution in the municipalities in accordance with the provisions of the new Act calls for the determination of several questions, *e.g.*, (*i*) the declaration of communities as minority communities, the reservation of seats for them, and the distribution of such seats among the different wards; (*ii*) the special representation of industries and of labour where necessary; and (*iii*) the division of municipalities into wards where there are none at present. As the time between now and the 31st March, 1933, is short, Government consider it desirable that the *status quo* in regard to the number of municipal commissioners and the existing boundaries of municipalities and of wards should be preserved as far as possible. No steps therefore should be taken now to divide into wards municipalities which are not already so divided. As regards the representation of industries and of labour, I am to observe that any attempt to form industrial constituencies as contemplated in section 18 of the Act is bound to delay the preparation of electoral rolls. Government are therefore of opinion that for the present such representation should be secured by increasing the number of appointed commissioners in the manner laid down in section 18(*1*) (*i*) of the Act. I am therefore to request that proposals for the representation of industries and of labour in such municipalities as come under the scope of section 18 of the Act, as well as for the representation of minority communities, may be submitted to Government by the 15th December, 1932, at the latest: the figures on which proposals as regards minorities are based should be furnished in each instance. To avoid delay a copy of this letter together with a copy of the new Act is being forwarded to the District Officers direct, with the request that proposals under these heads as well as for the introduction of the elective system in those municipalities which are now included in Schedule I of the old Act may be submitted to you by the 30th November, 1932, in time for them to be forwarded to Government with your recommendations by the date prescribed.

3. Chairmen of municipalities are also being asked to take immediate steps in advance for the preparation of electoral rolls on the basis of the extended franchise under the new Act.

Nos. 5323-5348 M., dated Calcutta, the 11th November, 1932.

Memo. by—The Assistant Secretary to the Government of Bengal, Local Self-Government Department.

Copy, with two copies of the new Act, forwarded to all District Officers for information and necessary action. It is requested that the proposals called for in paragraph 2 of the circular may be submitted to the Divisional Commissioner by the 30th November, 1932, at the latest.

2. It is also requested that a report may be submitted to Government by the 15th December, 1932, stating what progress has been made in the preparation of electoral rolls of the municipalities in his district.

Memo. Nos. 5349-5465 M., dated Calcutta, the 11th November, 1932.

Copy, with a copy of the new Act, forwarded to all Chairmen of municipalities for information and necessary action.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In connection with answer (*a*) I may inform the House that since it was printed the assent of the Governor General has been received to the Bill.

Chinsura civil court buildings.

8. Rai Bahadur SATISH CHANDRA MUKHERJI: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that electric light has been introduced in the town of Hooghly and Chinsura for a long time;

(*ii*) that all the civil, revenue, criminal courts and the Commissioner's offices, the district board, local board offices and the survey and settlement offices are located in the barrack in Chinsura; and

(*iii*) that the Commissioner's court and his offices, the Collector's *ejlas*, the district board and local board offices, all the settlement courts and all their offices have all got electric lights and fans?

(*b*) Is the Hon'ble Member aware that the civil courts in the barracks suffer from structural defects and are unsuitable as court offices so as to be in darkness off and on?

(c) Did the Government give administrative sanction to two projects for lighting the civil courts and their offices to the extent of Rs. 13,938 and Rs. 7,443 respectively in 1926 and 1931 and also promise to allot funds from the budget grant for minor works for the said purpose in their letter No. 4385J., dated the 30th May, 1931, addressed to the Registrar, High Court?

(d) If so, will the Hon'ble Member be pleased to state the reasons for not executing the works?

(e) Is the Hon'ble Member aware that the Hon'ble Mr. Justice Cumming in his inspection report (dated the 13th February, 1930) of the Chinsura civil court buildings condemned the court building as being very dark and damp and unfit for court work?

(f) Are the Government considering the desirability of allotting funds for the said purpose for this year?

The Hon'ble Mr. W. D. R. PRENTICE: (a) (i) and (ii) Yes.

(iii) Yes, excepting that some of the settlement offices have electric lights but no fans.

(b) Yes: owing to very wide verandahs along the whole length of the building on both sides, the light is defective.

(c) The scheme was modified and administratively approved for Rs. 7,443 in 1931; no promise was given, but it was hoped to find the money from the minor works grant.

(d) Because no money was available.

(e) Yes.

(f) No, as the minor works grant for this year has already been exhausted.

Mathabhanga-Nabaganga scheme.

10. Maulvi SYED MAJID BAKSH: Will the Hon'ble Member in charge of the Irrigation Department be pleased to state—

(i) the estimated cost of excavating the canal joining the Mathabhanga and the Nabaganga at Chuadanga;

(ii) the time that will be required for completing the work;

(iii) the departments that have contributed to the expenditure; and

(iv) the amount contributed by each of such departments?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (i) The cost was estimated by the district boards concerned at about Rs. 14,000, excluding cost of land.

(*ii*) As far as Government are aware, the work can be executed in about three months.

(*iii*) and (*iv*) The Irrigation Department will contribute Rs. 5,000 if the work is completed to the satisfaction of the Chief Engineer.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state which district boards are concerned in the matter?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Both the district boards of Nadia and Jessore.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state when were the estimates prepared and when the sanction of Government was accorded to those estimates?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I want notice.

Maulvi SYED MAJID BAKSH: Has any department contributed any amount?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes, the contribution came entirely from the Irrigation Department.

Short-notice starred question.

*32A. **Mr. C. C. COOPER:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether he is in a position to make any statement regarding the correspondence exchanged between the Government and the Corporation of Calcutta?

(*b*) What action, if any, does Government propose to take on the replies received from the Corporation of Calcutta to the Government letters?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) and (*b*) Government hope to be in a position to make a statement before the end of the present session.

LEGISLATIVE BUSINESS

GOVERNMENT BILL.

The Bengal Local Self-Government (Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the Bengal Local Self-Government (Amendment) Bill, 1932, as reported by the Select Committee, be taken into consideration.

Sir, in moving for reference of this Bill to Select Committee in February this year I made it perfectly clear that in this Bill no attempt was made to alter the constitution of the district boards and local boards. Though it is high time and desirable that the constitution of these units of local self-government should be made more broad-based and their constitution should be fully democratised but any such attempt was deferred on the recommendations of the conference of chairmen held in Darjeeling in October, 1930. This Bill was only meant for removing some administrative difficulties that have been experienced of late and the removal of which was considered essential for more smooth working of the district boards. With this object in view the Bill was drafted and introduced. The Select Committee met on the 29th of February and concluded its work on the 8th of March. I shall only mention some of the important changes that have been recommended by the committee. As in the Bengal Municipal Bill, the Local Government has been substituted for the Commissioner wherever it was found practicable. By this the principle of bringing the district and local boards directly in contact with the Ministry of Local Self-Government was sought to be realised. Thus the appointment of members of the district board which is now done by the Commissioner has been transferred to the Local Government. So also in case of the removal of members on the ground of misconduct it is to be done by the Local Government directly instead of on the recommendations of the Divisional Commissioner.

One of the important modifications which has been proposed by the Select Committee is the deletion of clause 11 which provided for deposit by candidates for election to local boards.

Another important change which has been suggested by the Select Committee is in clause 14. A tribunal has been proposed to decide the election disputes as in clause 34 of the Bengal Municipal Act instead of the District Magistrate as was in the Bill.

Every officer drawing a monthly salary of Rs. 50 or more but less than Rs. 100 has been given a right of appeal to the Commissioner in case of dismissal. Similar right has been given to officers drawing Rs. 100 or more, but in their case the appeal would lie to the Local Government instead of the Divisional Commissioner.

The most important change which has been recommended by the Select Committee is the deletion of clause 49 where it was proposed to invest the district board with discretionary power to tax bullock carts.

The Select Committee has not made any substantial change in the power which is proposed to be given to the district board to ask owners or lessees of fairs, *melas*, private *hats* or markets to take out licenses on certain conditions in the interest of public health. The Select Committee has accepted the principle and has only introduced some verbal alterations limiting the power of asking only owners or lessees to take out such license.

These are mainly the broad changes which have been recommended by the Select Committee. Government have accepted practically all of them excepting clause 11, namely, recommendation about the deletion of election deposit, which they consider essential to discourage candidates who stand only in the interest of others and have put in an amendment for the re-insertion of this clause besides a few formal amendments they consider necessary to remove drafting defects. With these few words I beg to commend the motion to the acceptance of the House.

The motion was put and agreed to.

Clauses 1 to 6.

Mr. PRESIDENT: The question before the House is that clauses 1 to 6 do stand part of the Bill.

The motion was put and agreed to.

Clause 7.

Mr. PRESIDENT: The question before the House is that clause 7 do stand part of the Bill.

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, I beg to move that in clause 7, in proposed section 10 (*2*), in lines 5 and 6, the words beginning with "and any person" and ending with "duly elected member" be omitted.

Sir, my purpose in proposing this amendment is not to curtail the rights and privileges of the members appointed by Government. When there is no difference in regard to such rights or privileges between an elected member and one appointed by Government, none can have any grievance if an appointed member be deemed always as an appointed member. In view of the feeling that a nominated member is not free from Government influence as voiced forth in one of the dissenting minutes, I think there can be no harm, nor will the force of the section be affected in any way, if we omit the two lines and stop at the word "proportion".

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I presume that this amendment has been brought forward under a misapprehension, because these few words were put in to reconcile the provisions of this clause with those of clause 19. If the words are deleted, the seats will continue to be filled up by nominated members. I hope the Maharaja of Dinajpur will kindly realise the difficulty which his amendment will introduce and will withdraw his amendment.

The motion of Maharaja Jagadish Nath Ray, of Dinajpur, was then put and lost.

Mr. PRESIDENT: The question is that clause 7 do stand part of the Bill.

The motion was put and agreed to.

Clauses 8 and 9.

Mr. PRESIDENT: The question is that c part of the Bill.

Babu KHETTER MOHAN RAY: I beg to move that in clause 8, in lines 3 and 4, after the words "Local Government" the words "and for the word 'him' the word 'it'" be inserted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I may inform the House at this stage that Government are prepared to accept this amendment.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 8, as amended, and clause 9 do stand part of the Bill.

The motion was put and agreed to.

Clause 10.

Mr. PRESIDENT: The question before the House is that clause 10 do stand part of the Bill.

The following motion was called but not moved:—

Babu KHETTER MOHAN RAY to move that in clause 10, in proposed section 15A, in line 3, after the word "offence" the words "involving moral turpitude" be inserted.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 10, in proposed section 15A, in line 5, after the word "exceeding" the words "one year and" be inserted and, in lines 12 to 14, the words beginning with "be entitled to vote" and ending with "Joint Union

Committee) or" be omitted, and, in lines 15 and 16, for the words "any such local authority" the words "any local authority" be substituted; and, in lines 18 to 21, the words beginning with "and a person" and ending with "from such date" be omitted.

Sir, in support of this motion, I beg to say that it will be a great injustice to the electors to deprive them of their qualifications because they have been imprisoned for more than six months. It is quite enough to impose that restriction as long as a person intends to stand as a candidate, but the right to vote should not be taken away because of his conviction. I think, Sir, this right to vote has not been taken away even in the Bengal Municipal Act which was passed only quite recently. Then, Sir, the last portion of my amendment refers to "a person reported by such authority to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date," and it is no denying the fact that these words are vague and superfluous in the extreme. This portion of the clause is not required at all inasmuch as corrupt practice has not been defined, and, therefore, I submit, Sir, it is quite unnecessary to introduce this expression in the Act. It is rather anomalous to disqualify a person for three years for corrupt practice when the very expression "corrupt practice" is vague and indefinite. In these circumstances, Sir, I move my amendment for the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. I would draw the attention of the hon'ble member to rule 7, sub-rule (2), of the Bengal Electoral Rules. This clause has been framed exactly on that line. There, if a voter is guilty of any of the corrupt practices, it would not only disqualify him from standing as a candidate but would also prevent him from voting. I think, therefore, there is nothing new to be complained of in this clause.

Maulvi SYED MAJID BAKSH: On a point of information, Sir. The Hon'ble Minister has referred to the rule in the Council manual which provides that the name of the voter should be removed from the electoral roll, but according to the provisions of this Bill, he will not be allowed to vote. If his name appears in the electoral roll, he will presumably present himself for the purpose of voting, and it is likely that some person might object to his voting. But if his name is removed from the roll, no such contingency will arise. I think that we should follow the procedure laid down in the electoral rules.

Mr. C. C. SEN: Mr. President, Sir, in reply to the point raised by Maulvi Majid Baksh, I might say that the expression "a person shall not be entitled to vote" means exactly the same thing, *viz.*, that his

name shall not be registered as a voter. There are election rules for the guidance of presiding officers, and the power of voting is confined to persons whose names are entered in the electoral rolls. For example, presiding officers are not empowered to prevent a person from voting whose name is entered on the electoral roll, and nobody is entitled to vote who is not registered as a voter on such roll.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question before the House is that clause 10 do stand part of the Bill.

The motion was put and agreed to.

Clauses 11 and 12.

Mr. PRESIDENT: The question before the House is that clauses 11 and 12 do stand part of the Bill.

The following motion was called but not moved:—

Maulvi SYED NAUSHER ALI to move that in clause 11, before proposed section 16B, the following be inserted, namely:—

Deposit by candidate for election to a district board.

"16A. (*1*) Every candidate for election as a member of a district board shall be required to deposit with the Magistrate of the district such sum, not exceeding rupees fifty, within such period and in such manner as may be prescribed by rules under section 138.

(*2*) Rule 12 of the Bengal Electoral Rules shall, so far as is possible, apply to the return or withdrawal of such deposit in cases where the candidate withdraws from or fails in, the election, or fails, after his election, to make the prescribed oath or affirmation."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 11, before proposed section 16B, the following be inserted, namely:—

"16A. (*1*) On or before the date fixed for the nomination of candidates, each candidate for election as a member of a local board shall deposit with the Magistrate of the district the sum of rupees one hundred in cash, and no candidate shall be deemed to be duly nominated unless such deposit has been made:

Provided that the Local Government may reduce the amount of deposit to fifty rupees in the case of such local board as it thinks fit.

(*2*) If a candidate who has made a deposit under sub-section (*1*) withdraws his candidature before he is registered as a candidate or

within three days of his registration or if his nomination is refused, his deposit shall be returned to him, and if a candidate dies before the poll is held, his deposit shall be returned to his legal representative.

(*3*) If the number of votes polled by a candidate does not exceed ten per cent. of the total number of votes polled the deposit shall be forfeited to the District Fund.

(*4*) The number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted."

Sir, in moving for the consideration of the Bill, I explained that to keep out candidates who stand not for themselves—or who are not *bona fide* candidates—but who stand only to divide the votes and help other candidates, it is necessary that there should be some deposit-money. This principle of deposit was accepted by the House recently in connection with a similar section in the Bengal Municipal Act. There are similar provisions in the Bengal Electoral Rules and in the Calcutta Municipal Act. There is absolutely no reason why there should not be an identical provision in the Local Self-Government Bill.

3-30 p.m.

The word "deposit" means that its return can be governed by rules. The object of Mr. Basu can be attained through rules.

Mr. NARENDRA KUMAR BASU: If it meets with the approval of the Hon'ble Minister I think the second clause of the other amendment, *i.e.*, that rule 12 of the Bengal Electoral Rules shall, so far as is possible, apply to the return or withdrawal of such deposit and so on and so forth. If he will accept that as clause (*5*) the matter will be simplified.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I just point out to Mr. Basu that the amendment which I moved is an exact reproduction of a similar provision in the Bengal Municipal Act?

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, any one having some experience of local board elections will testify to the fact that nowadays unnecessary complications are raised in them, through the candidature of a host of Jacks, who are neither very serious in their purpose nor are capable of discharging the duties of a member belonging to such a responsible body. I speak with personal knowledge that most desirable candidates are very often thrown out on account of too great a distribution of votes polled at an election, not to speak of the innumerable cliques that will be arrayed against him, if every scheming

Tom is allowed freedom to contest at an election. I am sure the section omitted by the Selection Committee will prove a salutary check, if it is retained.

I should also think that the sum to be deposited had better be fixed by this Council here and not left for future prescription. It is far better that the responsibility of fixing the sum, be it heavy or light, should be taken by the councillors themselves. I am of opinion that Rs. 100 is quite a reasonable figure for that. It may be thought a little too much in these hard days, but my experience tells me that the deposit of a hundred rupees can never act as a bar to the candidature of a good man, however poor he may be. We have found very poor people also contesting even the Legislative Council elections. The money is found some way or other. I have nothing to object if the motion of the Hon'ble Minister-in-charge be accepted, in which case I shall not move my amendment.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to support the amendment. It is useless to lay stress on the necessity of demand for a deposit money from a candidate. To put a check on the unnecessary rush of candidates as well as to attract worthy candidates who are at the same time earnest, it is absolutely necessary that each candidate for election shall have to deposit a certain amount while filing his nomination papers. But the main thing we are to bear in mind is that the amount of deposit should not be unnecessarily high or ridiculously low. I think the sum of rupees one hundred is not unreasonable in the case of most of the local boards and in view of the fact that the successful candidates will be entitled to the membership of the district board. But it cannot be denied that in the case of some local boards the amount must be high. In such cases the amount should be reduced to fifty rupees which is quite a reasonable figure and the Hon'ble Minister has rightly provided for such emergency in his amendment.

I myself have got an amendment of a similar nature which I do not like to move, as I think the present amendment is more reasonable and comprehensive.

As to the discrimination between the two classes of local boards there is no other alternative but to leave it to the discretion of the Local Government. The amendment also deals with the return and withdrawal of the deposit money. If the candidate withdraws his candidature before he is registered as a candidate or within three days of his registration or if he dies before the poll is held his deposit money shall be returned. But if he fails to secure one-tenth of the total number of votes polled the deposit shall be forfeited to the district fund. This is also a reasonable proposal and nobody can have any objection to it.

With these words I support the motion.

Rai Bahadur KESHAB CHANDRA BANERJI: I heartily support the amendment moved by the Hon'ble Minister. I tabled a similar amendment which runs exactly on these lines. The Hon'ble Minister has said in answer to Mr. Narendra Kumar Basu, the question of withdrawal of deposit money may be provided for by rules, but I find that sub-section 2 of the new section makes such a provision. If a candidate fails to secure 10 per cent. of the total number of votes polled, his deposit money will be forfeited, but if he is successful he will be entitled to a refund of the deposit money. So I do not see any difficulty in this matter.

Babu KISHORI MOHAN CHAUDHURI: Sir, I oppose this amendment because I think it will keep out some good men. There are among the poorer section of the people, men who are very popular but who are not in a position to deposit a heavy sum. In case of failure of such men to deposit money some desirable people will be kept out. It would not be advisable to make the amount to be deposited so high.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I rise to oppose the motion of the Hon'ble Minister. I do not think that the Hon'ble Minister has made out any case whatsoever for imposing this caution money of Rs. 100 in this Bill. I do not think that it is the habit of anybody in Bengal to stand for local boards only for the fun of it or for harassing a man. If it is made obligatory to pay Rs. 100 before one can stand for election I think it will keep out really good and popular candidates from local bodies and particularly it will tell very harshly on my community, because men of my community will not be able to deposit the money which is required by this section. It is no good saying that a principle like this has been adopted in the Municipal Act. We were opposed to that imposition; of course we could not carry it. There may be some justification for it in municipal areas but there are absolutely none so far as the rural areas are concerned. For this reason I strongly oppose this amendment.

Mr. SHANTI SHEKHARESWAR RAY: I also oppose this amendment. I may point out to the House that there was a suggestion of a similar nature in the original Bill and it was not accepted by the Select Committee and the Hon'ble Minister has not been able to advance any reason why it should be incorporated in the Bill in spite of the wishes of the Select Committee. The only argument he has advanced is that because he is getting such a provision in the Bengal Municipal Act, so he would incorporate a similar provision in the Local Self-Government Act, but Khan Bahadur Abdul Momin has pointed out that these are

quite different. There have been complaints against candidates so far as municipal elections are concerned, but I think so far as elections of local boards and district boards are concerned there has been no such complaint. Generally the class of people who contest local board elections will be put to great difficulty if such a provision is incorporated in this Bill.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the Hon'ble Mr. B. P. Singh Roy's motion. Why? Because I consider it a useful safeguard against frivolous candidature. And as such it should be retained.

Many candidates enter their appearance not to be elected but only to put unnecessary difficulties in the way of those candidates who are the real representatives of the people. These bogus candidates act as tools in the hands of the wire-pullers of whom the less spoken the better. I regret to say in this connection, I mean the malpractice of frivolous candidature, really very ugly situations we met in our humble experiences. And I speak from experience that a check against the current frivolous candidature will be a healthy check. It will not be a check to our growing democracy. If I thought like that I would have been the first to oppose the Hon'ble Minister.

Sir, I am fully conscious—rather painfully conscious—that I am speaking against the majority report. I yield to none in paying due regard to the observations and opinions of the majority report. The members of the majority report who opposed it meant well of the country. Nobody doubts it. But, Sir, in academic discussions with regard to the actual operations of our administrative machinery, even the best of us are liable to err. None of us are infallible. Error of judgment is only human; so with the best of intentions and having the most advanced political theories in our pocket we can oppose a measure, which may appear undemocratic, but in actual operations it is really not so.

Frivolous candidature of the nature I just referred to does not come within miles of democracy. We want substance of democracy not shadow. If it is really so—and I think it should be so—then I cannot but support and I hereby do support the Hon'ble Minister in his motion of the deposit of rupees hundred and not rupees fifty, by candidates for election to a local board. Sir, I also support the other clauses (*2*), (*3*) and (*4*) of this motion which are vitally connected with the main proposition of this motion.

Babu KHETTER MOHAN RAY: This very principle has been introduced only the other day in the Bengal Municipal Act. It is always found at such elections that many persons stand for election

who are not *bona fide* candidates and have not the slightest chance of success. There are some who are induced to stand in order to favour candidature of some other persons——

Khan Bahadur MUHAMMAD ABDUL MOMIN: How many cases do you know of?

Babu KHETTER MOHAN RAY: I can cite several instances. Some persons have made it a source of income by standing as candidates. There should be some sort of check against bogus candidature. This salutary provision has been introduced in the Bengal Municipal Act. Similar rule obtains with regard to candidature for Council election. I hope the Council will not object to the introduction of this rule in the Local Self-Government Act.

I would appeal to the Hon'ble Minister to delete the proviso, as it would minimise the check which is sought to be put against the bogus candidate.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That has been put in to accommodate those persons for which I find so much solicitude in this House.

Maulvi ABDUS SAMAD: I beg to oppose this amendment. I think the Hon'ble Minister and members who supported him have not made out a case for the insertion of the clause which was deleted by the Select Committee. The only ground on which this has been thought to be justified is that it will keep away many bogus candidates.

3-45 p.m.

Now, Sir, it is true that in some cases some bogus candidates are set up, but this clause will not meet such cases, because a candidate who sets up bogus candidates spends hundreds and thousands of rupees for election and it will be very easy for him to lose hundred, two hundred or three hundred rupees by setting up bogus candidates. On the other hand this clause will be a source of great hardship to poor and deserving candidates who will not be in a position to deposit such a large amount. Because such a clause has been inserted in the new Bengal Municipal Act, is no reason that it should be inserted in the Local Self-Government Act as well. I submit to the members of the Council that because one wrong or mistake has been committed in the Bengal Municipal Act, that is no justification that a similar mistake should be committed again in the Local Self-Government Act.

Maulvi SYED MAJID BAKSH: Sir, arguments have been advanced that because a provision like this has been inserted in the Bengal Municipal Act, a similar provision should be inserted in this Act also. But I submit that there is a good deal of difference between municipalities and rural areas. In the case of municipalities this fee has been fixed at Rs. 100. Now the people residing in rural areas are very very poor compared with those living in municipal areas and this clause demanding a fee of Rs. 100 is rather very drastic. Of course there is the provision that the Local Government may reduce the amount of deposit to Rs. 50 in the case of such local board as it thinks fit. To my mind this should rather be included in the original amendment than in the proviso. I do not think the proviso will serve any useful purpose. On the other hand the Local Government will be put to considerable trouble in dealing with applications from local boards for the reduction of the deposit. Secondly, what I think more important is that this will introduce party factions in the district board and will successfully bar a deserving candidate who wishes to stand on his own if he is poor. If he is poor and deserving he will have to join a party or a particular person in order to find this deposit money and if he accepts the amount from any particular party or person he will as a matter of course be subservient to that particular person or party and he will generally support the action of that person or party. Therefore my submission is that this high amount will introduce party faction and party politics in these elections and therefore the clause seems to be objectionable. If there is to be any deposit it should be considerably lower and consistent with the economic condition of the people. A man in similar circumstances within a municipal area is ten times as rich as a man in a rural area, so the amount should be adjusted accordingly. As I have said before, a poor candidate will have to join a party or person and this will introduce an unnecessary clique and an unnecessary coterie which will disturb the peace and harmony in rural areas. So I suggest for the consideration of the Hon'ble Minister that the amount should be considerably lower.

Maulvi TAMIZUDDIN KHAN: I also oppose this motion moved by the Hon'ble Minister. I think, Sir, the Hon'ble Minister has shown the Select Committee scant courtesy in introducing this clause after it was thrown out by the said Committee. As Mr. Shanti Shekhareswar Ray has pointed out, the Hon'ble Minister has not adduced any cogent reason why this clause should be introduced, but I think that some reason has been adduced on his behalf by the Maharaja of Dinajpur. He says that unless there is a clause like this, people who are very desirable and competent according to him will be debarred on account of distribution of votes amongst persons who are according to him undesirable. Here the cat is out of the bag. The reason is to keep

out persons who are deserving but poor, so that the competition will be only amongst persons who are competent according to my hon'ble friend. This is the whole gist of the situation. Now, Sir, at the present moment there is acute distress prevailing in the country and to my mind it is unthinkable that at such a time a clause should be introduced which was not in the law originally and which is nothing but retrograde from all points of view.

Sir, it has been said that in the Bengal Municipal Act a similar clause has been introduced. No doubt it is so, but it was introduced in spite of the opposition of a very large section of the House, and also I think so far as that is concerned a very small area of Bengal will be affected thereby. But the whole of Bengal will be seriously affected if this clause is introduced in the Local Self-Government Act. Even if there are frivolous candidates here and there that is no reason why a drastic clause like this should be introduced. The remedy suggested will be far worse than the disease. Therefore I think the Hon'ble Minister should not press a clause like this in the present circumstances of this country. If times improve and if it is actually seen that the want of a clause like this encourages frivolous candidature to such an extent that it becomes an evil, then it will be time for the Government to come up with a proposal like this. In the present circumstances I think the motion should be opposed.

Mr. P. BANERJI: Sir, the object of this Local Self-Government Bill is to bring in real representatives of the people and the Select Committee in rejecting this clause certainly did their duty and kept the door open for the poorer people—the cultivators—who are the real representatives, to come in. Sir, in introducing this clause again the Hon'ble Minister is showing solicitude for the class of people to which, I should say, he belongs—I mean the aristocracy. The landlords will come in larger numbers (A VOICE: How do you know?); because I claim to know more of elections than anybody else here and I have fought many elections the like of which have never been seen in Bengal before. Therefore I can say with authority that rich people will be in a position to set up several candidates to fight the elections. Sir, an argument has been put forward—and I consider it a silly argument—that this clause is necessary in order to shut out bogus people. I ask who are these bogus people? These are unfortunate people who by accident are poor but who, I consider, are the true representatives of the people. I say a conspiracy has been made to shut out these people from the local boards. Sir, it is known and known extensively all over the province that it has become difficult for richer people to come into the district and local boards, because popular representatives are coming in nowadays. Sir, in the Select Committee, the principle of this deposit has not been accepted. They thought that there should be no

deposit at all. I also consider that there should be no deposit at all, because we want all sections of the people to be represented. In Bengal 85 per cent. of the people are poor and belong to the cultivating class and we should not shut out these people by accepting a measure like this. Sir, an argument has been put forward that this will keep out frivolous candidates. I submit there is no force in that argument. Let the people fight out elections and come in. It does not matter to anybody or to Government if 10 per cent. or 20 per cent. contest elections. Let them all fight out. I consider that the argument put forward by the Hon'ble Minister cannot stand the light of day. With these words I oppose the motion.

Babu SUK LAL NAG: Sir, in supporting the motion as regards clause 16A (*1*) I beg to say that so long there being no fixed amount as deposit in this matter, any number of candidates may send in their applications for election, causing thereby unnecessary expenses of district fund and a good deal of harassment and trouble; but if this motion is carried, only those who are in earnest and interested in public matters, shall come forward. It may be noted in this connection that such election of local boards necessitates expenditure of a considerable amount of district fund such as Rs. 3,000 to Rs. 5,000, and some part of these expenses may be made good by the forfeited money of the unsuccessful candidates.

As regards the proviso, I oppose this part of the motion on the ground that it smacks of preferential treatment. I submit that whatever the amount is, it should be made universally applicable in all cases. I therefore do not see any necessity of inserting this clause.

Regarding clause 16A (*3*), I stand to oppose this part of the motion. I have to state that if this is carried, it will lose the very importance of fixing up of the deposit money. It is universally known that all the votes on the respective electoral rolls are not polled and I may venture to state that generally 50 per cent. are polled and remaining 50 per cent. do not record their votes. To be more clear I beg to submit a concrete example. Suppose there are 4,000 votes recorded in a certain electoral roll, but the votes actually polled are 2,000. You can easily understand that it is not at all a difficult matter for a candidate to secure 200 votes only in his favour out of 2,000. Under the circumstances, if this part is carried, it will simply defeat the very object of the imposition of this deposit amount.

I therefore suggest that if this percentage of 10 per cent. is retained, it should be based on the number of votes recorded on the electoral roll or 20 per cent. of the votes polled.

As regards 16A (*4*), I oppose this part of the motion. I beg to submit that so long this system has not been followed by the local boards and it cannot be said that such elections produced unsatisfactory

results in the past. It is also to be noted that the introduction of ballot papers would mean loss of time inasmuch as in such cases it will require twice the time required formerly, if not more. It also means double or more expenses of the district fund. I therefore think this is unnecessary.

4 p.m.

Maulvi ABUL QUASEM: Mr. President, Sir, I rise to oppose the motion that has been moved by the Hon'ble Minister. My hon'ble friend Babu Suk Lal Nag and I come from the district of Khulna and we are both members of the Khulna District Board. Sir, I entirely dissent from the reasons he has given in support of the motion. I have had experience of a keenly contested election to the local board of Satkhira. Sir, I speak from experience when I say that candidates who are determined keep on to the end of the election and spare no pains to ensure their success. Those who are not in earnest generally drop out before the poll takes place. I agree with my hon'ble friend Maulvi Abdus Samad that if a rich candidate wants to set up some other candidates in order to divide the votes in his interest he will not certainly be deterred from doing so by the fear of having the amounts of deposit forfeited. On the other hand, people who are really popular among the voters and who are desired by them to stand for election and whose membership of the board will be of real value to it, will, in many cases, find it impossible to deposit the amount required and will consequently be prevented from standing for election. Such a result, I consider, Sir, will be a real loss to the public. I am clearly of opinion, Sir, that we should do nothing which will have a tendency to shut out really good and competent people in the rural areas from the local boards. Sir, I oppose the motion.

Maulvi ABDUL HAMID SHAH spoke in Bengali, the English translation of which is as follows:—

"Mr. President, the village people did not know what local self-government meant before the introduction of union boards. The moment their eyes were opened to the fact that they also had a voice in conducting the affairs of such institutions as the local board, district board, etc., a large number of the village people came forward to contest the elections. As a result of this, the dominance of the influential aristocracy, living in the towns, over the local boards has gradually declined and real representatives of the local people have found their place in the local boards. Nowadays, the local people devote their attention to the needs and grievances of the locality and elect the ablest among them as their spokesmen. I beg to draw the kind attention of the Hon'ble Minister-in-charge to the fact that it will defeat the very purpose of the Local Self-Government Act if he makes

a provision for depositing Rs. 100 by the candidates for membership in the local board elections. Those who apprehend that there will be a rush of undeserving contestants in the election, should there be no provision for a deposit, ought to bear in mind that in places where union boards have not been set up, an income of Rs. 1,000 a year as the minimum qualification of the candidates for the membership of local boards has been fixed by a clause inserted in the present Bill under discussion. In these hard days of financial stringency this clause quite suffices to prevent the rush of undeserving candidates. If a further provision for depositing Rs. 100 be made, it will impose an unjust burden upon the candidates in those places where a minimum limit of an annual income of Rs. 1,000 has been set up. I also appeal to those who support the insertion of this clause for deposit, to consider whether it is as easy for the ordinary villagers to make a deposit of Rs. 100 as it is for the mercantile community and members of the legal profession living in the towns.

I therefore earnestly request the Hon'ble Minister-in-charge to withdraw his proposal for depositing Rs. 100 in order that it may not close the doors of local boards to the ordinary villagers."

Mr. A. RAHEEM: Mr. President, Sir, though I am not interested in this matter I should like to suggest a compromise. In this clause it is laid down that the deposit should be Rs. 100 reducible to Rs. 50. I suggest that this should be substituted by Rs. 50 reducible to Rs. 25 in the case of such local boards as Government might think fit. If this is agreed to by the Government I hope the other members of this Council will also accept it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If that will satisfy the majority of the House I have no objection to accepting the compromise.

Mr. H. P. V. TOWNEND: I beg to move that in clause 11 in proposed section 16A, (*1*) in line 3, as proposed by the Hon'ble Minister for the words "rupees one hundred" "rupees fifty" be substituted, and similarly in the second line of the proviso thereto for the words "fifty rupees" the words "twenty-five rupees" be substituted. I should also like to move that in proposed section 16A (*3*), in line 1, after the word "candidate" the words "who is not elected" be inserted. This is in order to meet the objection raised by Mr. N. K. Basu. I understand that the House is agreeable to accept the Hon'ble Minister's amendment on condition that these changes are made, and therefore I shall not discuss the arguments that have already been put forward by some of the members. But I should like to say one or two words in regard to the charge recklessly thrown out against the Hon'ble Minister—I should not use the word "recklessly" and some members perhaps will not like it—

and that was that he was guilty of discourtesy to the Select Committee. The position is this. The Select Committee did not accept any provision of this kind. It was a select committee of the House, and subsequently the House accepted a provision of this kind in the case of the Bengal Municipal Bill. I do not think that any one can be said to be guilty of discourtesy for not accepting the considered opinion of a select committee of this House in preference to the considered opinion of the House itself. I think the members who made all those insinuations against the Hon'ble Minister would probably now be inclined to withdraw them.

Mr. PRESIDENT: I think the Hon'ble Minister's motion could be altered as suggested by Mr. Townend. I shall, therefore, put to the House the motion of the Hon'ble Minister as altered by Mr. Townend.

The motion, as amended by the Council, was then put and agreed to.

The following motions failed:—

Mr. ANANDA MOHAN PODDAR to move that in clause 11, before proposed section 16B, the following be inserted, namely:—

"16A. (*1*) Every candidate for election as a member of a local board shall be required to deposit with the Magistrate of the district, such sum, not exceeding rupees fifty within such period, and in such manner as may be prescribed by rules made under section 138. Deposit by candidate for election to a local board.

(2) Rule 12 of the Bengal Electoral Rules shall, so far as is possible, apply to the return or withdrawal of such deposit in cases where the candidate withdraws from or fails in, the election, or fails after his election, to make the prescribed oath or affirmation."

Maharaja JAGADISH NATH RAY, of Dinajpur and Rai Bahadur KESHAB CHANDRA BANERJI to move that in clause 11, before proposed section 16B, the following be inserted, namely:—

"16A. (*1*) Every candidate for election as a member of a local board shall be required to deposit with the Magistrate of the district rupees one hundred, within such period, and in such manner, as may be prescribed by rules made under section 138.

(2) Rule 12 of the Bengal Electoral Rules shall, so far as is possible, apply to the return or withdrawal of such deposit in cases where the candidate withdraws from or fails in, the election, or fails, after his election, to make the prescribed oath or affirmation."

Babu KHETTER MOHAN RAY, Maulvi SYED NAUSHER ALI and Babu SUK LAL NAG to move that in clause 11, before proposed section 16B, the following be inserted, namely:—

"16A. (*1*) Every candidate for election as a member of a local board shall be required to deposit with the Magistrate of the district such sum, within such period, and in such manner, as may be prescribed by rules made under section 138. Deposit by candidate for election to a local board.

(2) Rule 12 of the Bengal Electoral Rules shall, so far as is possible, apply to the return or withdrawal of such deposit in cases where the candidate withdraws from or fails in, the election, or fails, after his election, to make the prescribed oath or affirmation."

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 11, proposed section 16B be omitted. I move this amendment because I think that the introduction of this section is unnecessary. When we discussed the Bengal Municipal Bill all avenues in connection with this question were explored and I do not think that there is any more necessity of making a big speech on this matter. It is absolutely clear from the arguments that were advanced at the time of discussing the Bengal Municipal Bill that this amendment which seeks to insist upon the members of the local boards and district boards taking an oath of allegiance is unnecessary. We think that this is unnecessary because there was no such thing in the past and I do not think that anything much serious has occurred in the absence of that section. In the future also I do not think that an addition of this clause will improve matters, or the absence of it in the Act will be very much felt. Therefore I do not think it is necessary.

Rai Bahadur Dr. HARIDHAN DUTT: Dr. Ghose has got an inspiration from far Ireland to suggest that the oath has got to be done away with. I look at it from this point of view that beginning from the district and local boards up to the Legislative Assembly there is a chain in the whole administration of the country. That being so, if there is an oath for the Bengal Legislative Council and if a member of the Assembly has to take an oath of allegiance to His Majesty the King Emperor, there is no reason why it should not be so in the lower bodies, *i.e.*, the district and the local board. If the oaths are admissible in the Legislative Council and in the Assembly, what is the objection in the district board? I think the objection raised is rather frivolous.

Dr. NARESH CHANDRA SEN GUPTA: I need not repeat what I said before in the House in connection with a similar motion in regard to the Bengal Municipal Bill. My friend Rai Bahadur Dr. Haridhan Dutt does not see any reason why the oath should be dispensed with in the case of the district boards and local boards. He is charmed with the symmetry of the whole thing that there should be an oath of allegiance from the Legislative Council down to the village self-government——

[At 4-15 p.m. the Council was adjourned for prayer and it reassembled at 4-30 p.m.]

Dr. NARESH CHANDRA SEN GUPTA: Sir, talking of symmetry, as I suggested, there is the Village Self-Government Act

which also would accordingly require to be amended, and I wonder if my friend Dr. Haridhan Dutt will bring in a Bill for the amendment of the Village Self-Government Act too! But that is not the only institution; there are others in which the oath of allegiance has got to be introduced, namely, the Calcutta University, the Dacca University and I do not know how many other institutions.

There is absolutely no earthly reason why the oath of allegiance should be introduced in the district boards and local boards. We have done without it for all these years. What has happened now which requires the introduction of this amendment?

Mr. B. C. CHATTERJEE: But what is your objection?

Dr. NARESH CHANDRA SEN GUPTA: My friend asks what my objections are; but he forgets that it is for those who advocate an innovation to make out a case. Sir, I again repeat there is absolutely no reason why it should be introduced now. It has been said that we have already introduced it in the Bengal Municipal Act passed by this Council and this should also be in the Local Self-Government Act. But, Sir, there is no analogy between the Calcutta Municipal Act and this Act; I mean to say that the two Acts are not on the same footing. Have we got in this Bill amendments to the constitution of the district boards and local boards which we have introduced in the Municipal Bill? We have not. The Hon'ble Minister in his opening speech in introducing the Bill, repudiated the idea of introducing any constitutional amendment in this Bill, presumably because we are on the eve of constitutional reforms, an argument which of course did not apply in the case of the Calcutta Municipal Bill. But then there is an important difference between these two Acts. In this Act the presence of a clause relating to oath is absolutely chimerical. A breach of the oath by a person who has taken it involves no consequence whatsoever. In the Bengal Municipal Act—thanks to the timely intervention of Khan Bahadur Maulvi Azizul Haque—the Hon'ble Minister had managed to retain the clause by which the commissioners of a municipality could be removed for breach of oath without being convicted of sedition, without being proved to have committed the offence of sedition. So in this Bill the clause relating to the oath stands by itself; there is no consequence whatsoever attending its breach: that at any rate distinguishes the Bengal Municipal Act from the Local Self-Government Act.

Sir, I have been asked what are the objections. My objections I have already pointed out in connection with the Municipal Bill and also in my Note of Dissent. There is at the present moment a movement—a subversive movement—which is directed against the British Government and there is at the present moment——

Mr. PRESIDENT: You have nothing to do with that.

Dr. NARESH CHANDRA SEN GUPTA: I am only giving reasons for not introducing such a provision in the Bill.

Mr. PRESIDENT: I do not think that the Minister based this particular clause on any such argument as you are advancing.

Dr. NARESH CHANDRA SEN GUPTA: My submission is this: that at the present moment, having regard to this movement which seeks to undermine the authority of the British Government, this provision will give a handle to those who want to destroy the local bodies, to utilise it for the purpose of their propaganda: that is the reason for which I have been fighting against this clause in respect both of the Municipal Bill and of this Bill. We are aware that there is a movement going on against union boards: but it has not yet touched the district boards and local boards. But the introduction of a clause regarding oath will, I am afraid, be a signal to those persons to make an attempt to wreck these bodies also. That is the apprehension for which I object to the introduction of this innovation. Besides, it would be remembered, as I pointed out in another connection, that the absence of the oath makes no difference whatsoever. It is not as if the man who fails to take the oath does not thereby owe any allegiance to the King. By the law of the land, as it stands, every British subject owes allegiance to the King, oath or no oath. So the absence of the oath makes no difference whatsoever. The oath of allegiance is an archaic form of allegiance derived from the time when, apart from the oath, allegiance did not exist. Therefore the absence of the oath would cause no inconvenience whatsoever, and a man who broke the oath by being seditious or by committing treason could be convicted, or turned out, or dealt with for committing that offence whether there is the oath or not. At best it is an absolutely unnecessary innovation, as also harmful and objectionable, because it will give a handle to people to disturb the working of the local bodies, which we all want should be carried on efficiently and without any disturbance.

Mr. D. J. COHEN: I move that the question be now put.

Mr. B. C. CHATTERJEE: I think, Sir, we lawyers sometimes lose all sense of humour. When my friend, Dr. Naresh Chandra Sen Gupta, was asked to take the oath of allegiance in the High Court as a condition precedent to his admission as an advocate therein, he raised no objection.

Dr. NARESH CHANDRA SEN GUPTA: As a matter of fact, I never raised any objection to others taking the oath.

Mr. B. C. CHATTERJEE: Then why make so much pother about it? If Dr. Sen Gupta has no objection to the oath being taken, it is difficult to understand why he objects to its being there in this Act. We are not "others"; we are ourselves; and by reason of the fact that he is in this Council and that he has had to take the oath of allegiance here too, my friend convicts himself twice over; first by taking the oath in the High Court, and then by taking it here. I do not know why he should shed tears over the outraged consciences of other people. This is a sort of——

Dr. NARESH CHANDRA SEN GUPTA: Did I say that?

Mr. B. C. CHATTERJEE: I thought I had never heard my friend in a more lachrymose vein than just now. I thought the whole of his speech was choked with tears, as he gave it to us.

Dr. NARESH CHANDRA SEN GUPTA: Then you did not understand my speech.

Mr. B. C. CHATTERJEE: It may be that I did not. But I do say that Dr. Sen Gupta, as a rule, is very forceful, very eloquent and very logical. But to-day he was nothing of the kind and all his sentences were punctuated with unshed tears for this reason that he had no principle to urge for the abolition of the oath in this particular case. As a rule Dr. Sen Gupta fights for principles, and we are all accustomed to his logical demands. To-day, he began by saying that though he was prepared to take the oath of allegiance under certain circumstances, he was of opinion that such oath of allegiance should not be taken by candidates seeking election to union boards, etc., in rural areas.

4-45 p.m.

I am sorry, Sir, that Dr. Sen Gupta is not aware of the inconsistencies which are so much in evidence in his speech; if he believes in taking the oath of allegiance—and we all believe in it, because, otherwise, we would not be here in this House—is it not inconsistent on his part to say that the oath is not necessary? That is a proposition which we on this side of the House do not and cannot understand. We are here, I suppose, in obedience to some principle: surely, we believe that we may be able to help the country by coming here; those who do not believe that are not here; we differ from the latter; we differ from those who would not take the oath of allegiance; why then get us into morasses by confusing the issues, by standing up and beginning to shed tears for those whose faith you do not share? Therefore, I think, Sir, that on this particular occasion Dr. Sen Gupta has a bad case.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to support the motion of Dr. Ghose. Apparently, Dr. Sen Gupta is very anxious to delete the oath, and his principal objection is that there is no necessity for this so far as election to union boards, etc., in rural areas is concerned.

Mr. B. C. CHATTERJEE: What is the necessity here then?

Babu KISHORI MOHAN CHAUDHURI: That is a very big question to answer off-hand. We can make a distinction between the co-operators and the non-co-operators here, but in local bodies it is not at all necessary, and I submit that there is no such necessity.

Mr. B. C. CHATTERJEE: Perhaps the hon'ble member is aware of the fact that the Swarajists do take the oath in the Calcutta Corporation.

Babu KISHORI MOHAN CHAUDHURI: I submit, Sir, that the oath which has to be taken by the councillors of the Calcutta Corporation should not be our guide.

Sir, clause 11 (*2*) says: "Any person who, having been elected or appointed to be a member of a district board or local board, fails to make within the said period the oath or affirmation required by sub-section (*1*) shall cease to hold his office and his seat shall be deemed to have become vacant."

That means there should be no excuse for a man for any reason whatever—such as ill health—who fails to take the oath of allegiance within three months. I would even go further, and that is that even if a man falls ill and fails to take the oath, he should be compelled to vacate his seat. I am of opinion that a man should be allowed some privilege of not taking his oath within a maximum period of three months and I think that in special circumstances the time-limit ought to be extended.

Sir, I do not understand this desire on the part of Government to insert this clause in the Bill. If there is any necessity to do so, it is quite clear that the provision in the clause is not quite enough. It would be hard if no reason should be allowed to be taken into consideration if he is unable to take his seat and the oath within three months. It is from that aspect and for that reason, I think that such a drastic provision should not be incorporated in the Act.

The analogy of the House of Commons is beside the point: we have nothing to do with the practice prevailing in other places: we have to examine this question with reference to our own local conditions.

My friend, Rai Bahadur Dr. Haridhan Dutt, has said something on this matter. I think all the speeches that have been delivered up till now are quite beside the point, and we have to thrash out the matter practically anew. We are dealing with bodies whose main function is confined to local and minor work, and any stringent measure is sure to deprive one from exercising his privileges and rights.

Maulvi ABDUS SAMAD: On a point of information, Sir. Does this provision for taking the oath of allegiance exist in self-governing institutions in England?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I believe so.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. Dr. Ghose in moving his motion has said that it is totally unnecessary for members of local bodies to take the oath of allegiance. Dr. Sen Gupta in supporting the motion has said that it was unnecessary and that it was an innovation.

Sir, I am really amused to find that Dr. Sen Gupta is against innovations, and that he is contradicting his own ideas and ideals. I had rather the impression that Dr. Sen Gupta belonged to the go-ahead school of thought, and that he always favoured novelty. In that belief I am disappointed. However, it is very refreshing to learn that he is tired of innovations. I might point out to him in reply to his aversion to innovations that the new constitution, which is in the making, is going to contain a great deal of innovations unheard of in this country. We are going to have self-government: we expect to have a federal government under which the provinces will be the federating units. And what will be the link between the different countries in the British Empire and India? It will be the oath of allegiance to the British Crown. It will be the bond of unity which will hold together the different parts of the British Empire. The oath of allegiance will remind the citizens of the different parts of the British Empire that there is a common bond of unity between them, *viz.*, the British Crown and they owe allegiance to the same Sovereign.

Dr. Sen Gupta has said that there is no such oath of allegiance in the Village Self-Government Act, and he has criticised Rai Bahadur Dr. Haridhan Dutt who supported the oath of allegiance on that ground. I am sure the Department of Local Self-Government will make a careful note of this statement of Dr. Sen Gupta and try to rectify the omission when that Act is amended.

If Dr. Sen Gupta were to become a Minister under the new Constitution, he himself will not only support but sponsor such a proposal. (Dr. Naresh Chandra Sen Gupta: No fear.)

Sir, my esteemed friend Mr. Chatterjee has anticipated many of my arguments, and I am thankful to him for that. In the course of his

speech, he pointed out that Dr. Sen Gupta had no objection to take oath of allegiance as a member of the High Court Bar and also as a member of this House. Further, the members of the Calcutta Corporation, who are predominantly Swarajists, have no objection to taking the oath of allegiance. There are Swarajists and extremists who, I believe, are not less anxious to do away with such innovations, but still they have submitted to this oath of allegiance.

I can understand, Sir, the anxiety of my esteemed friend, Babu Kishori Mohan Chaudhuri, to avoid all innovations, because at his age he is naturally against innovations, and I do appreciate his sentiments, except when he says that the constitution of local bodies is very simple and that their work is also very simple, so there should be no oath of allegiance. Whether the work is simple or complex, is absolutely beside the point; the question at issue is whether a member of a local body should take the oath of allegiance or not. The oath of allegiance has been introduced in the Calcutta Municipal Act. The proposal is now to introduce similar provisions in the Local Self-Government Act. I see no reason why it should not be done.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 11, in proposed section 16B, in line 7, for the words "three months", the words "six months" be substituted.

My object in proposing for an extension of the time for taking the oath to six months is that a particular member might be ill during the three months or he might be absent from the board for a considerable period of time owing to certain circumstances over which he had no control, or for some urgent business.

I submit, Sir, that the first meeting of a local body may not be held within three months from the date of publication of the notice in the *Gazette*.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I oppose this motion. If the oath is such a great necessity that the existance of the whole Empire will be jeopardised by its omission as our Hon'ble Minister would have us believe, I think the sooner the oath is taken the better. I, therefore, oppose this motion.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I rise to support this motion. While doing so, I should like to draw the attention of the Hon'ble Minister to section 13A of the present Local Self-Government Act and to clause 25 of the Bill. In clause 25, it is provided that a meeting of the district board shall be held once in every month for the transaction of business at its office, or, if unavoidable circumstances necessitate it, at some other convenient place, unless in the opinion of the chairman there is not sufficient business to be transacted.

provided that there shall be not less than nine meetings every year at intervals of not more than six weeks, and shall also meet as often as a meeting shall be called by the chairman, or, in his absence, by the vice-chairman.

Then, Sir, we find the following provision in the same clause, *viz.*, "Accidental omission to serve notice of a meeting on any member shall not affect the validity of a meeting".

5 p.m.

As I have already said within three months the chairman or vice-chairman may call only two meetings, and it is also provided that accidental non-service of notice on any member of the board will not invalidate the proceedings of the meetings. Owing to accidental circumstances or illness or some urgent matter a member may not be able to attend two consecutive meetings and there is also no provision that if on account of such accidental circumstances a member cannot be present within three months the Government will be able to use its discretion, and he will not be compelled to vacate his seat without having any opportunity to explain his absence. I think it would be hard or it would be very unjust to deprive a member of his statutory right if he be not able to attend a meeting within a short time. I, therefore, propose that three months be extended to 6 months. As the law stands now, only one meeting should be held within a month, but under clause 25 the chairman may call a meeting within 1½ months. As the intervals of meetings have been increased, there is no reason why sufficient time should not be given to take oath.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment. First of all the time was one month in the original Bill. It has been extended to three months by the Select Committee to bring it in line with the Calcutta Municipal Act. In reply to the objections raised by Mr. Roy Choudhuri I may point out that two extraordinary circumstances must coincide to make a member lose his seat, *viz.*, there should be no meeting within three months and the member should fail to attend and take the oath of allegiance.

As regards the objection taken by Mr. Roy Choudhuri, that there may not be any meeting within the first three months, I may point out that within a month of the constitution of the board the chairman has got to be elected, so that eventuality can never arise. There must be a meeting within a month of the constitution of the board.

As the House has already accepted the principle of the oath of allegiance, it is only proper that it should be taken within a reasonable time. If a member of a local board finds himself unable to attend any meeting within three months, I think it is better for him to resign and

make room for somebody else. Why should the local body suffer, why should the cause of the ratepayers go unrepresented because he is ill?

Maulvi ABUL QUASEM: Sir, the reasons advanced by the Hon'ble Minister leave me entirely unconvinced. I will refer him to section 18 of the Bengal Local Self-Government Act where it is laid down that the Commissioner may remove any member of a district board, local board or union committee if he, without an excuse sufficient in the opinion of the Commissioner, absents himself from six consecutive meetings of the board. Meetings of the board are ordinarily held once every month and if a member absents himself for six months then the Commissioner will have the power to remove him. But under this clause which is going to be inserted any person who is appointed or elected to be a member of a district board or local board shall, at the first meeting which he attends within three months from the date of the publication of election results, have to take the oath, and no provision has been made for any exceptional circumstances when a member, although he is anxious to attend the meetings and take the oath, fails to do so either on account of his illness or for some urgent and unavoidable business. The law is less severe and certainly more reasonable under section 18, which provides that if a member fails to attend any meeting for six months and if the Commissioner finds that sufficient excuse has not been shown for his absence then he may be removed. I think three months is quite an insufficient period; it should be six months to bring the provisions of the proposed section 16B into line with those of section 18. Sir, I support the amendment moved by Babu Khetter Mohan Ray.

Mr. H. P. V. TOWNEND: I do not know whether this argument really requires any answer as there seems to be no force in it. This provision has been in force in the Calcutta Corporation (I presume, since 1923) and there has been no such case as is imagined. There has been no such case in the Calcutta Corporation of which there are so many members, and there is no reason to expect them to arise in regard to these boards of which the members are fewer.

As regards the argument that the failure to take the oath in time may be due to causes over which a member may not have any control, I think that this is likely to be so rare that we need not pay any attention to it. Nor is there force in the argument that the provision in the Act dealing with members absent from meetings for six months is adequate for a case such as is contemplated in this section. Six months was judged suitable when it was a matter of attention to routine business. This matter of the oath is not routine, in the opinion of the house: that it is something special has been accepted by the rejection of the last amendment. A member of a board should therefore not be allowed so long a time

before he attends for the purpose of taking the oath as in ordinary cases. I think the argument will not appeal to the house.

The motion of Babu Khetter Mohan Ray was then put and lost.

Maulvi ABDUS SAMAD: I beg to move that in clause 11, in proposed section 16B(*1*), in lines 8 to 10, for the words "of publication in the *Calcutta Gazette* of the notification recording his election or appointment" the words "of the formation of the board" be substituted.

Sir, my amendment is on the line of the previous amendment but the period is much shorter. I suggest that three months should be reckoned from the date of the formation of the board and not from the date of the publication of the election. If this amendment is accepted it will extend the period to only one month because after publication of elections in the *Gazette* a first meeting is to be held and the board has to be formed within three months. So this amendment suggests that the member should at least take the oath of allegiance in the first meeting which he attends after the formation of the board. Now this amendment is specially necessary in view of the fact that in clause 2 of the proposed Bill there is no provision for absence on the part of the members on unavoidable reasons.

As regards unavoidable reasons, my friend Mr. Quasem has referred to section 18 of the Local Self-Government Act which allows absence for six months. Even after that if he can show any reasonable ground for his absence that is condoned.

As regards the oath of allegiance under the new Act, I cannot understand why in the special circumstances no provision is made for absence on account of unavoidable reasons. There should be some provision for absence of members under any unavoidable circumstances.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: As I said in connection with the last amendment, the meeting of the Board must be held within one month of the publication of the result of election in the *Gazette* for the election of the chairman. What is the practical effect of Mr. Samad's amendment? The meeting which must be called within one month may be called after another 15 days. It only extends the time-limit by a fortnight or three weeks. So it is quite immaterial. The period of three months is provided in the Calcutta Municipal Act and past experience shows that it did work very well. There are 90 members in the Calcutta Corporation and during the last nine years there was not a single case where a member lost his seat because of his inability to attend the meeting of the Corporation and for failure to take the oath of allegiance because of his illness. So it is purely a hypothetical case which my friend wants to support on imaginary grounds.

The motion was put and lost.

Babu KHETTER MOHAN RAY: I beg to move that in clause 11, for proposed sub-section (*2*) of section 16B, the following be substituted, namely:—

"(*2*) The Local Government may remove any person, who having been elected or appointed to be a member of a district board or local board, fails to make within the said period the oath or affirmation required by sub-section (*1*), from his office and his seat shall be deemed to have become vacant."

Mr. President, Sir, in moving the amendment, my object is to afford an opportunity to any member who has failed to take the oath of allegiance within the prescribed time, for unavoidable causes, to take the same if the Government is satisfied that he was unable to do so for sufficient reasons. There is a provision in the Act (*vide* section 18) that a member may be removed from office, if he absents himself for six consecutive meetings without sufficient excuse. If a member fails to take the oath, due to illness or to some circumstances over which he has no control his failure should be similarly condoned. Therefore I think the Government should have discretionary powers either to condone such failure or to take steps to remove him from the office.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry I have to disappoint my hon'ble friend because the language of this clause follows exactly the language in section 38 of the Calcutta Municipal Act and section 57(*2*) of the Bengal Municipal Act. I see no reason why this should be changed. The drafting of these clauses was very carefully considered before they were inserted and it will be rather dangerous to accept such amendments on the floor of the House in a matter like this. What Khetter Babu suggests is that the Local Government may remove any person, but the clause is obligatory. We do not want to introduce any option.

The motion was put and lost.

The following motion was called but not moved:—

Rai Sahib AKSHOY KUMAR SEN to move that in clause 11, after proposed section 16B(*2*), the following be added, namely:—

"Provided that a member shall not cease to hold his office if he fails to make oath or affirmation within the aforesaid period of three months on account of illness rendering him unable to attend the meeting."

Mr. ANANDA MOHAN PODDAR: I beg to move that in clause 11, after proposed section 16B(*2*), the following explanation be inserted, namely:—

"*Explanation*.—A person who by constitutional means endeavours to make changes in the constitution shall not be deemed to have thereby violated his oath of allegiance."

Sir, this clause was originally included in the Bill but it has been deleted by the Select Committee. I do not know, why.

Sir, we are at present passing through very troublesome days and though it may not be very desirable we cannot avoid politics altogether even in our local bodies. And for this reason, I think, the proposed explanation has its great value. If it is omitted, I am afraid, there may be undue interference with the liberties of politically minded members. A member may bear true allegiance to His Majesty the King-Emperor and may discharge his civic duties faithfully but at the same time may join the political movements of the time or he may be a member of the Congress, the creed of which is to achieve its end by constitutional means, but which is to-day declared unlawful. It is not improbable that such a member may be imprisoned for his political activities, and as a result it may be construed that he has violated his oath of allegiance and he may be removed from his office.

Sir, this is not a desirable situation and I think the board should not be allowed to be deprived of the services of a member on this account. It may be argued, that the explanation is superfluous, but I think, in view of the troubled situation in the country, this explanation to the clause is of imperative necessity. Sir, though I am aware that its application will not be required in many cases still its utility cannot be overlooked even for special circumstances.

With these words I commend my motion for the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I have to oppose this amendment because it is quite unnecessary. There is no provision in this Bill at least for punishment in case of violation of the oath of allegiance as there was in the Bengal Municipal Act: so this clause was considered unnecessary and deleted by the Select Committee. If there had been a provision for punishment in the Bill, then the suggestion made by Mr. Poddar would have been necessary.

The motion was, by leave of the Council, withdrawn.

* * *

Mr. PRESIDENT: The question is that clause 11, as amended, and clause 12 stand part of the Bill.

The motion was put and agreed to.

Clause 13.

Mr. PRESIDENT: The question is that clause 13 stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, may I with your permission move the insertion of a new clause 13 in place of the existing one so as to bring it into line with section 62(*1*) of the Bengal Municipal Act?

Mr. PRESIDENT: Yes, you have my permission.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that for clause 13, the following shall be substituted:—

After section 17 of the said Act, the following section shall be inserted, in the form in the left hand column for non-union board areas and in the form in the right hand column for union board areas, namely:—

17A. The Local Government may, if it thinks fit, remove any member of a district board, local board or union committee on the ground of misconduct in the discharge of his duties, if the removal is recommended by a resolution of the board or committee, as the case may be, passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of members.	17A. The Local Government may, if it thinks fit, remove any member of a district board or local board, on the ground of misconduct in the discharge of his duties, if the removal is recommended by a resolution of the board, passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of members.

Babu KISHORI MOHAN CHAUDHURI: May I know whether in non-union board areas the removal of a union committee member is at all contemplated?

Mr. H. P. V. TOWNEND: May I explain, Sir? The union committee is a committee constituted under the old Act and a union board is one which will be constituted under the Village Local Self-Government Act. The names are rather similar but the things are different.

Mr. PRESIDENT: I have allowed the Hon'ble Minister to move this amendment but I think it will be fair if members are given some time to consider it. The Council will now adjourn for prayer; in the meantime, members may go through this new clause and decide their course of action.

[At 5-30 p.m., the Council was adjourned for prayer and it reassembled at 5-45 p.m.]

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Mr. PRESIDENT: The question is that clause 13 as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

The following motions failed:—

Clause 13.

Dr. AMULYA RATAN GHOSE, Maulvi SYED MAJID BAKSH, Rai Sahib AKSHOY KUMAR SEN, Mr. P. BANERJI and Maulvi ABDUL HAMID SHAH to move that clause 13 be omitted.

Babu KISHORI MOHAN CHAUDHURI to move that in clause 13, in line 3, for the word "non-union" the word "union" and, in line 4, for the word "union" the word "non-union", be substituted.

Dr. AMULYA RATAN GHOSE to move that in clause 13, in proposed section 17A, for non-union board areas, in lines 8 and 9, and in the said section for union board areas, in lines 4 and 5, after the words "recommendation of a" the words "*bona fide* body of electors or a" be inserted.

Maulvi ABDUL HAMID SHAH to move that in clause 13, in proposed section 17A, for non-union board areas, in lines 12 and 13, and in the said section for union board areas, in line 7, after the words "made at a meeting" the words "at which two-thirds of members shall be present, and" be inserted.

Rai Bahadur, SATISH CHANDRA MUKHERJI and Maharaja JAGADISH NATH RAY, of Dinajpur, to move that in clause 13, in proposed section 17A, for union board areas, in line 7, after the words "made at a meeting" the words "at which two-thirds of members of the said board shall be present and" be inserted.

Clause 14.

Mr. PRESIDENT: The question before the House is that clause 14 do stand part of the Bill.

The following motion was called but not moved:—

Maulvi TAMIZUDDIN KHAN to move that in clause 14, proposed section 18B(*1*) (*d*) be omitted.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 14, in proposed section 18B(*1*), in the last 4 lines, the words beginning with "provided that the previous proceedings" and ending with "in any respect" be omitted.

In my opinion these lines are unnecessary and therefore I formally move the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I think it is a necessary safeguard and these lines should be retained. I oppose the amendment.

The motion was then put and lost.

The following motion was called but not moved:—

Rai Bahadur SATISH CHANDRA MUKHERJI to move that in clause 14, proposed section 18B(*2*) be omitted.

Mr. PRESIDENT: The question is that clause 14 stand part of the Bill.

The motion was put and agreed to.

Clause 15.

Mr. PRESIDENT: The question before the House is that clause 15 do stand part of the Bill.

The following motion was called but not moved:—

Babu KISHORI MOHAN CHAUDHURI to move that clause 15 be omitted.

Dr. AMULYA RATAN GHOSE: I formally move that in clause 15, in lines 3 and 4, the words beginning with "or by his failure" and ending with "under section 16B" be omitted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I formally oppose the amendment.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 15 stand part of the Bill.

The motion was put and agreed to.

Clause 16.

Mr. PRESIDENT: The question is that clause 16 do stand part of the Bill.

The following motions were called but not moved:—

Maharaja JAGADISH NATH RAY, of Dinajpur, and Rai Sahib AKSHOY KUMAR SEN to move that clause 16(*b*) be omitted.

Babu KHETTER MOHAN RAY and Mr. ANANDA MOHAN PODDAR to move that in clause 16(*b*), in proposed sub-section (*3*) of section 19A, in line 3, for the word "four" the word "three" be substituted.

Babu SATYA KINKAR SAHANA: I beg to move formally that after clause 16(*b*) the following be added, namely:—

"(*c*) after sub-section (*4*) the following be added, namely:—

'(*5*) Every district board and local board shall be re-constituted after the term of four years; if by that time the board be not re-constituted owing to delay in election, the Commissioner or District Magistrate shall appoint a temporary board of five members to conduct the affairs of the district board till the re-constitution of the board'."

Rai Bahadur SATYENDRA KUMAR DAS: Mr. President, Sir, I rise in support of this motion. I know that on the face of it the motion will not get much support from many of us—appointment of temporary board of five members by the Commissioner or the District Magistrate. Many of us will hesitate to support, I know.

But, Sir, in the absence of any such provision, what actually happens in the workings of these local bodies we must see. I may be pardoned if I speak of the Dacca District Board. Re-election should come after three years. This is what it should be. But during the last five years there was no election or re-election with the effect that the party cliques continue with greater velocity. And there is no check for it and no end of it. Under these circumstances, if there is a provision like the one suggested the members of the boards will act more promptly to re-elect them along with others. This provision will act as a whip and will put life and vigour into the proceedings of our district and local boards. It will quicken our sense of duty. It will be a check against the continuation of party cliques and consequent mismanagement of the local bodies during the period of abeyance before re-election. Sir, with this object in view I support the motion.

Rai Bahadur KESHAB CHANDRA BANERJI: I rise to oppose the amendment not because every district board shall be allowed to continue for an indefinite period but because the terms of the amendment as tabled are open to serious objection, and also because of the fact that the District Magistrate has been given power to appoint a temporary board to conduct the affairs of the district board till the reconstitution of the new board. In this Bill provision has been made for the appointment of a tribunal to dispose quickly of all disputes arising out of

elections. The present system is responsible for the undue delay in the formation of the board. Therefore I see no reason why this amendment should have the support of the House at all. Besides the proposal contained in the amendment is retrograde and reactionary in principle and no argument is sufficient to convince one of the desirability of this provision. I, therefore, oppose it.

Khan Bahadur Maulvi AZIZUL HAQUE: Mr. President, Sir, I doubt if the hon'ble mover was serious when he moved this motion. I hope my friend does not want that, until the new board is constituted, the members of the old board will continue to carry on the work. The line of action suggested in the motion is one of the most retrograde measures and I very strongly oppose it.

Babu SATYA KINKAR SAHANA: Sir, may I rise on a point of personal explanation? The Khan Bahadur has said that I was not serious. Really I am as much serious as I could possibly be in moving this motion. I propose only to keep the sword of Damocles hanging over their head so that the longevity of the board may not be prolonged.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I oppose the amendment. But I find that the law, as it stands, provides that the members of the district and local boards will hold office for four years, and then it goes on to say "commencing from the date of the first meeting of each board and until the first meeting of the new board." What will happen if the first meeting of the next reconstituted board is not held within the four years? The first part of the clause limits the life of the board to four years and does not visualise the possibility of the first meeting of the next reconstituted board not being held within that period.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I do not think I need speak at length in opposing this amendment. I do appreciate the point of the hon'ble mover in making some provision to introduce some safeguards against the abuses of getting the life of the boards extended by prolonged civil suits or by some other means. But I would just like to point out that Government has taken note of that and provided in clause 14 that election disputes should be excluded from the jurisdiction of the civil courts. This will expedite matters and in view of that, I hope the mover will withdraw his motion.

The motion of Babu Satya Kinkar Sahana was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clause 16 stand part of the Bill.

The motion was then put and agreed to.

Clauses 17 and 18.

Mr. PRESIDENT: The question is that clauses 17 and 18 stand part of the Bill.

The following motion was called but not moved:—

Rai Sahib AKSHOY KUMAR SEN to move that in clause 17, proposed section 20A be omitted.

Mr. PRESIDENT: The question is that clauses 17 and 18 stand part of the Bill.

The motion was put and agreed to.

Clauses 19, 20 and 21.

Mr. PRESIDENT: The question is that clauses 19, 20 and 21 stand part of the Bill.

The following motions were called but not moved:—

Maharaja JAGADISH NATH RAY, of Dinajpur, Babu KHETTER MOHAN RAY, Rai Bahadur SATISH CHANDRA MUKHERJI and Babu KISHORI MOHAN CHAUDHURI to move that clause 19 be omitted.

Maulvi HASSAN ALI: I beg to move that in clause 19, in proposed sub-section (*2*) of section 23, in lines 4 and 5, for the words "delegated to him by the chairman" the words "conferred and imposed upon him by a district board at a meeting" be substituted.

The object of my amendment is this. There are certain men who are very much fond of powers. In this case the chairman will be naturally very reluctant to part with the powers that will be left to him after delegating some of his powers to the first vice-chairman. So I think the power of delegation to the second vice-chairman should be given to the board itself.

Rai Bahadur KESHAB CHANDRA BANERJI: Mr. President, Sir, I rise to oppose this amendment. I will not reiterate the arguments which I advanced when a similar amendment was moved at the time the Bengal Municipal Bill was under discussion last session. I need hardly point out that the Select Committee, after carefully considering the question, suggested the deletion of the words "conferred and imposed upon him by a district board at a meeting."

6 p.m.

If the powers of the chairman are delegable by the board at meeting then complications will arise and this provision will be a fruitful source of party faction within the board. The vice-chairman, under the Act, has no independent existence; he shines by the reflected light of the chairman, and any powers that the chairman may think fit may be delegated to the vice-chairman. Of course, it may be said that it is hard to anticipate the difficulties that will arise if the amendment is accepted. But I can foresee, and I have strong grounds for believing, that if this amendment is carried difficulties will be created which it will be impossible for the board to avoid later on. The chairman is responsible for the administration of the board and the vice-chairman is only to assist him in his work. If the right of delegation vests in the board, the responsibility of the chairman, the non-official head of the district, will be considerably minimised. It is always better to make one person responsible in matters of administration than two or more. I, therefore, strongly oppose the amendment.

Mr. H. P. V. TOWNEND: Sir, I might perhaps add a word or two to the remarks of the Rai Bahadur. There are only two points that I should like to make. The first is that Maulvi Hassan Ali, in moving this amendment, has not moved an amendment also to clause 27, under which, in section 31B, the vice-chairman would derive his powers from the chairman. The effect of the acceptance of this amendment might be that there will be two rival vice-chairmen, one deriving powers from the chairman and the other from the board; thus the position would be difficult. The second point is of a more practical nature; it is that the Bill itself provides a remedy against the evils which, the mover imagines, necessitate putting in this amendment. If, however, the mover looks to clause 27 he will see a proviso in section 31A, which reads thus—

"Provided that the chairman shall not act in opposition to, or in contravention of, any order of the district board or local board at a meeting, etc., etc."

If they find that the chairman is not behaving fairly towards the vice-chairman, they can pass an order that he shall delegate certain powers to the vice-chairman. In view of this the member will perhaps see his way to withdraw his motion.

The motion of Maulvi Hassan Ali was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question is that clauses 19, 20 and 21 stand part of the Bill.

The motion was put and agreed to.

Clause 22.

Mr. PRESIDENT: The question is that clause 22 do stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 22, in lines 1 and 2, for the words and figures "To section 29 of the said Act the following sub-section shall be added, namely:—" the following be substituted, namely:—

"In section 29 of the said Act—

(*1*) in sub-section (*1*) for the words 'subject to his approval' the words 'subject to the approval of the Local Government' shall be substituted, and

(*2*) to the said section the following sub-section shall be added, namely:—"

It is only a formal amendment, Sir, and I need not make a speech on it.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 22, in proposed sub-section (*4*), of section 29, in line 5, after the word "chairman" the words "after obtaining such authority at a meeting" be inserted.

Sir, this is a necessary amendment because of the fact that the members of a board vote for certain powers to the chairman of the board, but certainly not for the vice-chairman of that board. But if for some reason or other there is no chairman in office or the chairman is absent for a certain period of time, it is not known for what length of time, it is proposed in this clause that the vice-chairman shall act on his behalf until a new incumbent of the post assumes office. It may happen that there may be no chairman for a long time and the new incumbent might take his place after, say, a year or a year and a half, and for such a length of time it may not be desirable for the members of that board to impose their confidence in the vice-chairman to carry on the duties of the chairman. Sir, such instances are not rare of a chairman remaining absent for a long time for some reason or other; in fact such cases happen frequently in our municipality: such cases may also happen elsewhere in both district boards and local boards. In that case if the vice-chairman has to carry on the work that the members of the board vested in the chairman, when the vice-chairman wants to take the responsibility of the chairman he ought certainly to obtain that authority from a meeting of that board. Unless that authority is

obtained in this way I think it will not be safe to say that the vice-chairman shall act and shall carry on the work of the chairman. With these words I move my amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to oppose this amendment. I am afraid Dr. Ghose is labouring under a misapprehension. The chairman does not derive his powers from the board at a meeting, but exercises certain powers of the board vested in him by the statute. If for some reason or other the chairman is absent from duty for a long time, the vice-chairman, who is elected by, and enjoys the confidence of, the board should perform his functions, and I do not see any reason why the vice-chairman should not be able to discharge the duties which are exercisable by the chairman himself in the temporary absence of the latter.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I want to add only this. Dr. Ghose does not seem to visualise what will happen if there is a vacancy in the chairman's post and the vice-chairman does not get the sanction of the district board to do the work of the chairman. I would ask him who would in that case carry on the work?

Mr. H. P. V. TOWNEND: Sir, what Dr. Sen Gupta says is true. I fail to see how any meeting could even be called, to authorise the vice-chairman to exercise the powers which he would enjoy under this section. If the vice-chairman is deprived of powers, there would be no one who would have authority to summon a meeting of the district board. I do not think that the amendment is at all a practical suggestion and I think that no one who had ever been in a district board would put forward such a motion.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 22, as amended by the Council, stand part of the Bill.

The motion was put and agreed to.

Clauses 23, 24 and 25.

Mr. PRESIDENT: The question is that clauses 23, 24 and 25 stand part of the Bill.

Mr. H. P. V. TOWNEND: May I move an amendment? In this clause there is a mistake in grammar. In line 5, in proposed section 29AA, the word "his" should be "their".

The motion was put and agreed to.

Babu KHETTER MOHAN RAY: I beg to move that in clause 23, in the proposed proviso to section 29AA, in lines 3 and 4, for the words "until the next meeting of the newly created board" the words "until the chairman and the vice-chairman are elected" be substituted.

I may explain, Sir, that this proviso has been suggested in order to enable the old chairman to do the work during the interval which must elapse before the meeting of the new board. Suppose a meeting of the new board does not take place for a long time: what will happen? Who will then exercise the functions of the chairman of the district board? Therefore I say, until the chairman and vice-chairman are elected the old chairman and vice-chairman should go on continuing their functions.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I would like to draw the attention of the mover to the proviso inserted by the Select Committee which I think would meet his point. This proviso makes it perfectly clear that if a chairman and vice-chairman are not elected at such first meeting such vacation of office shall not be deemed to take effect until the next meeting of the newly created board. I think, Sir, that will meet his point.

Babu KHETTER MOHAN RAY: I beg leave of the House to withdraw my motion.

The motion was then, by leave of the House, withdrawn.

Mr. PRESIDENT: The question is that clause 23, as amended by the Council, and clause 24 stand part of the Bill.

The motion was put and agreed to.

Clauses 25 and 26.

Mr. PRESIDENT: The question is that clauses 25 and 26 stand part of the Bill.

The following motion was called but not moved:—

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 25, in proposed section 30A, in line 4, before the word "once" the words "at least" be inserted.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 25, in proposed section 30A, the last paragraph, beginning with the words "accidental omission" and ending with "validity of a meeting" be omitted.

I do not understand, Sir,——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It would save time, Sir, if at this stage I say that I am prepared to accept it.

The motion was put and agreed to.

6-15 p.m.

Babu KHETTER MOHAN RAY: I beg to move that in clause 25, in proposed section 30B, in the first paragraph, in line 4, for the words "one-third of the," the word "three" be substituted.

Sir, the provision in the original Act is that a meeting can be requisitioned by three members, but in the present Bill it has been changed to one-third of the members. Under the Bengal Municipal Act, recently passed, a requisition can be signed by three members and a meeting can be called on such requisition. Sir, sometimes, there might arise emergent cases when it would be impossible to get a requisition signed by one-third of the members, and, therefore, I propose that a requisition signed by three members should be valid, and that on such requisition, the chairman or vice-chairman should issue notice for a meeting.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, may I be permitted to explain the reasons why one-third of the number of members was inserted by the Select Committee instead of three in the proposed section 30B? Sir, in the district boards it is a salutary safeguard against frivolous and unnecessary requisitions for meetings. It is known to all that for every meeting a district board has to pay a large sum of money as travelling allowance to the members, and if only three members are given the power to submit requisitions for calling meetings, it will cause unnecessary expenditure of public money. Besides, in district boards, where there are cliques and party factions, the executive will be needlessly harassed by such requisitions. It was after a very careful consideration that the Select Committee inserted the words "one-third" instead of "three". I think, for these reasons, the mover will see his way to withdraw his amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I do not think, Sir, I should add anything after what has fallen from the Rai Bahadur. He has clearly explained the view point. I oppose the amendment.

Babu KHETTER MOHAN RAY: In view of the explanation given, I should like to withdraw my amendment.

The motion was then, by leave of the House, withdrawn.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 25, in proposed section 30B, in the second paragraph, in line 2, for the words "six weeks" the words "thirty days" be substituted.

Sir, as far as I remember, in municipalities the time-limit for calling a meeting, after a duly-signed requisition has been made, is 30 days, and I do not see any reason why this time-limit has been extended to six weeks in the case of local boards or district boards. Thirty days is, I think, quite a long time for calling a meeting, and I do not see any reason why a longer time should be allowed to elapse for calling a meeting of a local body. Special meetings are intended for the discussion of special subjects which have got a special urgency, and, in view of this, I think any delay is undesirable, either on the part of the authorities of the local bodies concerned or of the Government. Therefore, Sir, I hope that the Hon'ble Minister will see his way to accept this amendment, as it is contained in the original Act.

Rai Bahadur KESHAB CHANDRA BANERJI: I should like to explain——

Mr. PRESIDENT: You cannot speak twice on the same subject, Rai Bahadur.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. In the original Act, the time-limit was 30 days. The Select Committee extended it to six weeks. I think, Sir, in this case there should not be any analogy between a municipality and a district board. In a municipal area no travelling allowance is paid. Moreover, the members of a municipality generally live within the municipal town, so 30 days' time is quite sufficient. But in the case of district boards, however, the Select Committee decided that the time-limit should be six weeks, as many members come from the interior of the district to attend meetings, and I do not see any reason why Government should go back upon the recommendations of the Select Committee.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 25, as amended, and clause 26 stand part of the Bill.

The motion was put and agreed to.

Clauses 27 and 28.

Mr. PRESIDENT: The question is that clause 27 do stand part of the Bill.

Maulvi SYED NAUSHER ALI: Sir, I beg to move that in clause 27, in proposed section 31A, in line 1, before the words "the chairman", the following be inserted, namely:—

"Subject to the provisions of any rules made under section 32".

Sir, my object is simple. If you turn to section 32(*e*), you will find that the district board and the local board are empowered to prescribe the powers to be exercised by the chairman or vice-chairman or by the committee. My object for adding these words to the proposed section is that there should not be any conflict in the law. It may be, Sir, that this section proposes to vest the chairman with all the powers that are vested in the district boards. Sir, section 32 gives the district boards power to make rules, defining the powers to be exercised by the chairman of the district board or local board. Therefore, if the words "subject to the provisions of any rules made under section 32", are not there, there is a possibility of a legal conflict.

Sir, it may be stated that the proviso to the section will save them from difficulties. As I read the section, Sir, it appears to me that the proviso will not be of any help to us in this respect. The proviso says that "the chairman shall not act in opposition to, or in contravention of, any order of the district board or local board at a meeting, or exercise any power which is directed to be exercised by such board at a meeting." These are not rules, Sir. Rules are framed but, according to formalities, they have got to be published in the *Gazette*, and the approval of the Local Government has got to be obtained. Therefore, this proviso does not cover the contingency that is intended to be covered by the words that I want to add to the proposed section.

With these words, Sir, I commend my amendment to the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept this amendment.

The motion was put and agreed to.

Maulvi SYED NAUSHER ALI: Sir, I beg to move that in clause 27, after the proposed proviso to section 31A, the following be added, namely:—

"Provided further that no such order or direction shall have any effect after the next reconstitution of the board."

Sir, my object is very simple. In fact, it furthers the very object for which this section has been incorporated. This section gives all the powers of the district board to the chairman. We, who have some experience of district board work, know very well that even in matters

of no importance, the chairman, under the present Act, has got no power whatsoever. Practically speaking, nowadays, under the present Act, we do things which are, strictly speaking, not in accordance with the law. Therefore, to save ourselves from these difficulties and to save the chairman from his action being declared *ultra vires*, this section has been incorporated. Therefore, Sir, what is intended by this proviso is that any curtailment of power that is made during the term of office of a particular board should not remain in force after that board is reconstituted. The object is very simple, Sir. The district board being a body corporate, if a resolution is passed by one board during its term of office, that resolution should stand so long as it is not rescinded. But, Sir, we who have got some experience of district board work, know very well that such resolutions are lost sight of after the reconstitution of the board, the result being that a particular chairman feels some difficulty in doing a thing on account of the ignorance of the direction that might have been given by a previous board.

This is one aspect of the question, Sir; and the other aspect is that the members of the board at a particular time may have a certain amount of confidence in the chairman, whereas after the reconstitution of the board it may not have that amount of confidence in him. Therefore, my submission before the House is that a chairman must be bound by the direction or order of the board during its term of office, but, as soon as the board is reconstituted, those orders and directions should cease to have any effect; and that if the reconstituted board want to have those orders and directions to be retained, a resolution should be passed to that effect by the reconstituted board.

With these few words, Sir, I commend my motion to the acceptance of the House.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I regret to have to oppose this amendment. The difficulties pointed out by my friend, Maulvi Syed Nausher Ali, are more imaginary than real. It is the duty of the district board staff to point out to the chairman what resolutions and orders are in force—I mean the resolutions passed by a previous board, and the standing orders of the previous chairman and if a newly-constituted board think that a particular resolution or an order should be rescinded, they are welcome to do that. They are at liberty to adopt any procedure they like, but I do not see any reason why this proviso should be inserted in the body of the Act.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am sorry that I have to oppose this amendment. It is expected that, with the growing importance and activities of the district boards, they should maintain efficient secretaries, and it is the duty of the permanent

officials of the district boards to point out what resolutions or what orders were passed by the out-going board. So, in order to maintain the continuity I think this amendment should not be accepted. It may be the unfortunate experience of the honourable mover of this amendment that such orders and resolutions were not pointed out to him by his office, but it is only to be expected that the permanent officials should be conversant with the orders and resolutions of a previous board. There should not be a rescission of the orders of the out-going board with a change in the personnel of the board. After all, a district board or a local board has a corporate existence, and accordingly continuity should be maintained. If the new board so desires, it can rescind any resolution or order of a previous board, but there should not be any reason why such resolution or order should automatically cease to be in force.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of information, Sir. May I know whether it would stand to reason for a new board to pass any resolution rescinding a previous resolution?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Something like that may be done, Sir.

The motion was put and lost.

The following motion was called but not moved:—

Maulvi HASSAN ALI to move that in clause 27, for proposed section 31B, the following be substituted, namely:—

"31B. The vice-chairman of a district or a local board shall exercise and perform such powers and duties as may be conferred and imposed upon him by a district or a local board at a meeting."

6-30 p.m.

Babu KHETTER MOHAN RAY: I beg to move that in clause 27, after proposed section 31B, the following be added, namely:—

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riot or l board n the riot.

"31C. The chairman of a district or local board, remaining absent from the district for more than thirty days without leave of the board, shall cease to be chairman and shall be deemed to have vacated the office."

The object of my moving the amendment is to provide check upon a chairman who resides outside the district. Complaints have been heard against some chairmen who were in the habit of passing months after months outside the district and the papers had to be sent to them for signature. This state of things should be provided against.

Dr. AMULYA RATAN GHOSE: I support the motion. There must be some rule asking the chairmen to see that they do their duties properly. There are chairmen, who, being elected as chairmen, neglect to look after their duties and there are chairmen who are professional men, such as lawyers or men belonging to other professions who pursue more for the purpose of making money. I know of chairmen who go away on professional business for months and months together without caring to see whether district boards are carrying on their duties. Under these circumstances it is a very wise amendment that has been proposed by my friend Mr. Khetter Mohan Ray. Although they are chairmen of district boards they are ordinary servants of the people and therefore they should not neglect their duties as such. In these circumstances there must be something in the Act which will rather compel them to look to their duties more regularly and properly.

With these words I support the motion.

Rai Bahadur KESHAB CHANDRA BANERJI: Of course, it is very delicate for a person who is in charge of the administration of a district board to oppose a motion like this, but I would like only to explain the reasons which call for the withdrawal of the amendment moved by Khetter Babu. There is a provision in the Act that no chairmen or vice-chairmen shall remain absent from the board for a period exceeding three months without the leave of the board. If a chairman absents himself from duty for more than three months, the board can pass a vote of censure upon him or direct that he must not do so in future. The chairman of the district board may, for some unforeseen reasons, such as illness, etc., have to remain absent for a period of one month—it may also be for domestic or other reasons which it is difficult to enumerate here. This should not disqualify him to continue in office. I would have supported the amendment if the period had been longer than one month, but it seems that the present amendment is a very drastic one and I hope the mover will withdraw it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have to oppose this amendment because it is unworkable. Chairmen of district boards hold honorary offices and it is rather unjust to remove them from their office if on any ground they are absent from headquarters only for a month. It may be that his absence is due to illness or on urgent private business. A few months ago it was urged on the floor of the House on behalf of the members of the municipalities that they should not be asked to vacate their offices or they should not be made to lose their seats for not taking their oath of allegiance within three months of their election. This amendment is, therefore, contrary to the principle advocated on the last occasion. If it is accepted, it will become extremely difficult for chairmen and vice-chairmen to undertake their honorary duties.

The motion was put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I, with your leave, move this amendment?

Mr. PRESIDENT: Yes, you can move the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 27, after proposed section 31B, the following be added, namely:—

Inspection by members of district board or local board of books of the board.

"31C. A member of a district board or a local board shall have the right to inspect all books of the board at such times as the board may fix for the purpose:

Provided that the chairman may, for reasons to be recorded by him in writing, direct that any particular book shall not be inspected without the direction of the board at a meeting."

Sir, a similar provision has been put in in the Bengal Municipal Act, so I think it is only fair that this privilege should be extended also to the members of the local and district boards.

Khan Bahadur MAULVI AZIZUL HAQUE: I am afraid I must oppose this motion. My friend forgets that simply because this right has been given to the municipalities, that is no reason why a similar right should be given to the district board or local board. It may be that the board, which has to administer a wider area and to deal with questions which affect a large area, may have to deal with them in a manner different from that followed in municipal affairs. Power is really being given to the members of the district or local boards to inspect the books of the board but the proviso says that the chairmen may, for reasons to be recorded in writing, direct that any particular book shall not be inspected without the direction of the board at a meeting. What I feel is that it is a matter which should be mutually arranged between the chairman of the district board and the members and the office, but it should not be necessary for the chairman to refer that matter to the board. It is better not to have a detailed rule of this nature; the matter should be left to the board itself.

Rai Bahadur KESHAB CHANDRA BANERJI: I regret to have to oppose the motion moved by the Hon'ble Minister. As a matter of common courtesy no chairman of a district board debars any member from looking into any books or registers kept in the office. When this question came up for discussion in connection with a similar provision in the Bengal Municipal Bill, I seriously objected to it and explained clearly my reasons for doing so. I do not wish to reiterate the arguments that I advanced on that occasion. I should like to warn the Hon'ble Minister against such a dangerous provision and request him not to press for it.

I am afraid some of us here think that all district board members are angels and are infallible and are free from bias or personal interest of any kind. But having been in close touch with the administration of local bodies for well over two decades, I am in a position to say from my personal experience that if such a provision is incorporated in the Act, it will hamper the working of the district boards owing to the unnecessary interference of the members and to the obstructive methods adopted by the unscrupulous among them. I need not be more explicit as the reasons against this provision are too numerous to be dealt with within the limited time at my disposal. Besides, it may not cause financial loss to the board and make administration impossible in some cases. This is democracy with a vengeance!

Maulvi SYED NAUSHER ALI: I would have welcomed this amendment and in fact this is all right on account of a rule that now exists. So far as I remember, there exists a rule framed by the Government of Bengal and circulated to the different district boards. I think in my district board we adopted it because it has always been the practice there that all papers are open to the members of the board. We never refuse to show them any, but unfortunately there is a defect in the wording. There are certain papers which can never be open to the members of the board, for instance, confidential papers in regard to the nomination of union board and local board officers and so forth. The proviso says that the chairman, for reasons to be recorded in writing, may direct that any particular book shall not be inspected without the direction of a board at a meeting. Unless there be such a provision every member might ask for any bit of paper which apparently cannot be shown to him. (A voice: They are always reasonable.) My friend says the members are always reasonable and they will never ask for the impossible.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am glad that at least one chairman will support me.

Maulvi SYED NAUSHER ALI: Please add something to this proviso to that effect; otherwise I am sorry I have to oppose it as it is.

Maulvi ABDUS SAMAD: I support the amendment, I think it is very reasonable. If there is no rule it will depend upon the whim of the chairman whether he will allow any member to look into the books or not. If the chairman is of opinion that any particular portion should not be shown, the matter should be left to the board and the decision of the board taken. I wholeheartedly support the amendment.

Mr. SHANTI SHEKHARESWAR RAY: I support this motion moved by the Hon'ble Minister though as a matter of fact Mr. Narendra

Kumar Basu gave notice of it. I think it would have been much better if the second portion had been deleted because I do not see any reason why any paper in the possession of the district board should be confidential to any individual member of the district board, because in coming to a decision he is expected to be in possession of all the facts. As the amendment stands, if a party wish to have control over the district board business, naturally that party can shut out members of other party from getting access to the district board papers which may be necessary in coming to a correct decision. Inspection will be necessary in order to find out if there is anything wrong with the administration of the district board. I do not know why Mr. Narendra Kumar Basu wanted that this discretion should be given to the chairman of the district board to shut out inspection of any paper. I hope the Hon'ble Minister will give some reason in justification of the proposition.

Babu KHETTER MOHAN RAY: I support the amendment moved by the Hon'ble Minister. This amendment provides statutory recognition of the rights of every district board member to inspect the records of the board if they so desire, subject to certain restrictions. A chairman who is elected by the members is in complete control of the records —and I do not see why other members who elected the chairman should not have the right even to inspect the records. At present, if a member desires inspection of the books, etc., of the board, it depends upon the sweet will of the chairman to give him access to the records. When any chairman does anything wrong or omits to do anything which he ought to have done, and if any member, in order to scrutinise the matter, wants inspection of the connected papers, the chairman, in such cases, is reluctant to allow inspection. When party spirit is rampant in the board, the chairman, on the advice of his partisans, generally refuses request for inspection. In similar other matters, inspection is sometimes disallowed on one pretext or other. I cannot conceive of any instance when inspection demanded by a member should be disallowed. It is said that the confidential matters such as the conduct or otherwise of officers are kept in secret and should not be subject matter of inspection by the members.

Is there any reason to deprive a member who is eligible for election of a chairman, the right of inspection even of such confidential matter? Here we have a check over irresponsible exercise of this right, provided by the proviso. In such cases, it is the district board which will decide whether inspection should be allowed or not. The other day we adopted the principle underlying the amendment in the case of the municipality.

I do not see any reason why this rule should not be introduced in the district board. It will provide a safeguard against irresponsible exercise of powers by the chairman.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the motion, not because the Hon'ble Minister has moved it, but because a similar provision has been made in the Bengal Municipal Act and I think that there should be such a provision in the Local Self-Government Act also.

Mr. B. C. CHATTERJEE: At great risk to life, because I ... myself in the proximity of three chairmen of district boards who have all combined to oppose this amendment with all that autocratic tradition which we had at one time associated with the Civil Service, I respectfully submit that this is a healthy provision and ought to be accepted by the House.

The motion was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Syed Majid.
Blandy, Mr. E. N.
Chatterjee, Mr. B. C.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Haji Badi Ahmed.
Chowdhury, Maulvi Abdul Ghani.
Coppinger, Major-General W. V.
Das, Rai Bahadur Satyendra Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghose, Dr. Amulya Ratan.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Hakim, Maulvi Abdul.
Henderson, Mr. A. C. R.
Haque, Kazi Emdadul.
Hogg, Mr. C. P.
Hooper, Mr. C. C.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Maulvi Tamizuddin.
Leeson, Mr. C. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Poddar, Mr. Ananda Mahan.
Prentice, the Hon'ble Mr. W. D. R.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Khetter Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray, Mr. Shanti Shekhareswar.
Reid, Mr. R. N.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Samad, Maulvi Abdus.
Sen, Mr. B. R.
Sen, Mr. Giris Chandra.
Shah, Maulvi Abdul Hamid.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

NOES.

Banerji, Mr. P.
Banerji, Rai Bahadur Keshab Chandra.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Haque, Khan Bahadur Maulvi Azizul.
Momin, Khan Bahadur Muhammad Abdul.
Roy, Mr. Saileswar Singh.

The "Ayes" being 48 and the "Noes" 6 the motion was carried.

Khan Bahadur Maulvi AZIZUL HAQUE: May I rise on a point of order, Sir, before you declare the result of the division? May I know as to how this motion is to be treated? It stands in the name of Mr. Narendra Kumar Basu who did not move it as he was absent. Hitherto your ruling has been that a motion standing in the name of one

member cannot be moved by another member without your permission. We were not informed whether the Hon'ble Minister who moved the amendment had your permission to do so.

Mr. PRESIDENT: The Hon'ble Minister made it perfectly clear that he wanted to move the amendment in the absence of Mr. N. K. Basu and I gave him permission to do so.

Mr. PRESIDENT: The question is that clause 27, as amended, and clause 28 stand part of the Bill.

The motion was put and agreed to.

Adjournment.

It being 7 p.m., the Council was then adjourned till 3 p.m., on Tuesday, the 29th November, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Tuesday, the 29th November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 91 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Faridpur railway station.

*33. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to lay on the table a statement showing for the years 1920-30—

(*i*) the income derived from all sources of the railway station at Faridpur; and

(*ii*) the expenditure for the maintenance of the station staff in those years?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*i*) A statement is laid on the table.

(*ii*) A statement is laid on the table.

Statement referred to in the reply to clause (i) of starred question No. 33.

SHOWING THE EARNINGS AT FARIDPUR STATION FOR THE YEARS 1919-20 TO 1930-31.

Years.	Forwarded passenger earnings.	Other coaching earnings.	Forwarded goods earnings.	Total of columns 1 to 3.
1	2	3	4	5
	Rs.	Rs.	Rs.	Rs.
1919-20 ..	67,689	Not available	33,224	1,00,913
1920-21 ..	70,322	Ditto ..	32,936	1,03,258
1921-22 ..	85,824	Ditto ..	40,126	1,25,950
1922-23 ..	85,205	Ditto ..	38,581	1,23,786
1923-24 ..	91,621	Ditto ..	82,849	1,74,470
1924-25 ..	Not available	Ditto ..	Not available	Not available.
1925-26 ..	1,28,438	16,999	Ditto ..	1,45,437
1926-27 ..	1,29,607	21,454(*b*)	1,36,460(*a*)	2,87,521
1927-28 ..	1,39,276	14,715(*b*)	1,24,713(*a*)	2,78,704
1928-29 ..	1,39,152	19,915(*b*)	1,29,812(*a*)	2,88,879
1929-30 ..	1,52,934	16,503(*b*)	1,73,510(*a*)	3,42,947
1930-31 ..	1,32,927	12,708(*b*)	2,24,317(*a*)	3,69,952

(*a*) Excluding earnings from traffic to East Indian, North-Western, Great Indian Peninsula and Bombay-Baroda and Central India Railways.
(*b*) Excluding earnings from parcels booked to all foreign railways.

Statement referred to in the reply to clause (ii) of starred question No. 33.

SHOWING THE EXPENDITURE FOR THE MAINTENANCE OF THE STATION STAFF AT FARIDPUR FOR THE YEARS 1920 TO 1930.

	Rs.
1920	3,036
1921	3,192
1922	3,126
1923	3,425
1924	3,580
1925	3,654
1926	3,554
1927	3,354
1928	3,578
1929	3,723
1930	4,791

Détenu Srijut Siddheswar Chakravarti.

*34. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether it is a fact that Srijut Siddheswar Chakravarti, now in the Hijli Special Jail, has gone on hunger strike since August 3rd, 1932?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for which he has resorted to hunger strike and what step the Government are taking to terminate the strike?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No. He refused to take food on the 12th and 13th August only.

(*b*) He adopted this course on account of the alleged grievances of other prisoners which, on inquiry, were found to the false. As the prisoner broke his fast, no action was necessary.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to state who held that inquiry, with reference to answer (*b*)?

The Hon'ble Sir PROVASH CHUNDER MITTER: Local officers.

Babu HEM CHANDRA ROY CHOUDHURI: Will the Hon'ble Member be pleased to lay on the table the reports by those officers?

The Hon'ble Sir PROVASH CHUNDER MITTER: No.

Men and cattle run over by trains between Suryanagar and Goalundo Ghat railway stations in the Eastern Bengal Railway.

*35. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state the number of human beings and cattle run over by trains and killed each year during the last five years for which figures are available on the railway line between Suryanagar and Goalundo Ghat railway stations in the Eastern Bengal Railway?

(*b*) If so, what steps, if any, do the authorities intend taking in the matter?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) The number of human beings and cattle run over by trains and killed on the railway line between Suryanagar and Goalundo Ghat during the last five years is as under:—

	Number of persons run over and killed.	Number of cattle run over and killed.
1927-28	5	Information not available.
1928-29	2	3
1929-30	4	3
1930-31	1	4
1931-32	1	0

(*b*) It is not intended to take any steps in the matter at present as the figures show a progressive improvement.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state whether it is not desirable to have some fencing and protection for men and cattle on the railway lines? He says that there is a progressive improvement in the figures, but how does he expect that this improvement will be maintained and that there would be no more casualty?

The Hon'ble Mr. J. A. WOODHEAD: I have nothing further to add, Sir.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether the department has made any inquiries or is the information based on the figures supplied by the public?

The Hon'ble Mr. J. A. WOODHEAD: The reply is based on the information received from the railway authorities.

Hardinge Bridge.

*36. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether it is a fact that an extra charge for 17 miles is made on all goods and passenger traffic on the Hardinge Bridge?

(*b*) What is the cause of this extra charge?

(*c*) When do the Government intend to discontinue this arrangement?

(*d*) What was the total cost of the Hardinge Bridge?

(*e*) What amount has been realised up till now by the imposition of this extra charge?

The Hon'ble Mr. J. A. WOODHEAD: (*a*), (*b*), (*d*) and (*e*) The member is referred to the reply given to unstarred question No. 94 by Mr. Shanti Shekhareswar Ray at the last session of the Council.

(*c*) It cannot at present be stated if, or when, this charge will be modified or withdrawn.

Water supplied to the prisoners at the Special Jail at Hijli.

*37. **Babu SUK LAL NAG:** Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state—

(*a*) Whether there is any rule as to the minimum quantity of water each prisoner is entitled to while in jail?

(*b*) What was the total quantity of water supplied each day to the Special Jail at Hijli in May and June 1932?

(*c*) What was the maximum population in that jail in those two months?

(*d*) Is it a fact that the water-supply at the Hijli Special Jail was utterly insufficient during the dry season of 1932?

(*e*) What was the average quantity of water supplied each day to each prisoner in the Hijli Special Jail in the months of April, May, and June, 1932?

(*f*) Is it a fact that reception of prisoners was kept in abeyance in the Special Jail at Hijli for some time in 1932?

(*g*) If the answer to (*f*) is in the affirmative, will the Hon'ble Member be pleased to state the details thereof and the steps taken to remedy the defect and the results obtained?

(*h*) Is it a fact that at the Hijli Special Jail urine was used to wash the latrines for want of sufficient water?

(*i*) What was the daily average number of patients who were supplied with medicines in the Hijli Special Jail during the months of April to July, 1932?

(*j*) What was the percentage of bowel complaints to the daily average total number of patients referred to in (*i*) above?

The Hon'ble Sir PROVASH CHUNDER MITTER: (a) No special rule is laid down in the Jail Code, but the usual standard of supply as recommended by the Public Health Department is 14·08 gallons per head. Where dry earth system of latrines is in vogue 5 gallons less per head are required.

(b) 32,000 gallons.

(c) 1,977 and 2,000 respectively.

(d) No.

(e) 16 gallons.

(f) Yes.

(g) On the 5th March, 1932, the Superintendent, Special Jail, Hijli, reported that he could not receive any more prisoners. The transfer of 250 prisoners to the jail was therefore held in abeyance. The Superintending Engineer being consulted reported that arrangements were being improved and that there was sufficient water. Orders for the transfer of more prisoners were made on the 13th March, 1932, and no trouble was reported. The proposals made by the Superintending Engineer for improving the water-supply were carried out.

(h) No.

(i) April, 1932—44·83.
May, 1932—35·64.
June, 1932 50·43.
July, 1932—81·77.

(j) April, 1932—21·99.
May, 1932—29·20.
June, 1932—47·51.
July, 1932—32·65.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state with reference to answer (d) if any complaint was made as regards insufficiency of water by the prisoners?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have nothing further to add.

Dr. AMULYA RATAN GHOSE: In connection with answer (a) will the Hon'ble Member be pleased to state what he means by the words "dry earth system of latrines"?

The Hon'ble Sir PROVASH CHUNDER MITTER: Dr. Ghose is a medical man and I suppose he knows it very well.

Bengal Process-servers' Central Association.

*38. **Kazi EMDADUL HOQUE:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that the Bengal Process-servers' Central Association is a recognised body?

(*b*) If the answer to (*a*) is in the affirmative, why the process-servers of Alipore (24-Parganas) and Howrah (Hooghly) civil courts have been prohibited from attending the meetings of the said Association?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) Yes.

(*b*) No process-servers either of Alipore or of Howrah civil courts were prohibited from attending the meetings of their Association.

Bengal Process-servers' Association.

*39. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the process-servers of the Alipore and Howrah civil courts have been prohibited from attending the meetings of their Association (Bengal Process-servers' Association)?

(*b*) Is the Hon'ble Member aware that the said Association is a recognised body?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Member be pleased to state the reasons for the ban?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) No.

(*b*) Yes.

(*c*) Does not arise.

GOVERNMENT BILL.

[The discussion on the Bengal Local Self-Government (Amendment) Bill, 1932, was then resumed.]

Clause 29.

Mr. PRESIDENT: The question before the House is that clause 29 do stand part of the Bill.

Mr. ANANDA MOHAN PODDAR: I beg to move that for clause 29 (*2*) the following be substituted, namely:—

"(*2*) for clause (*1*) of the proviso to the said section the following shall be substituted, namely:—

'(*1*) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Local Government, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Local Government.' "

In the original proviso, appointments, carrying rupees one hundred or more, are subjected to the approval of the commissioners, but the Select Committee changes the amount to two hundred rupees. I am in favour of the lower amount and like to have the Local Government as the revising authority instead of the commissioner. As it is well known, most of our local bodies are hot-beds of party cliques and as a result the party in power often placate its supporters and dismisses the officers whom it does not like. There must be some sort of check to a situation like this and I think the Local Government would be the best authority to be entrusted with the power of such safeguard.

When the party in power will be doing something arbitrary in this line it must depend upon the sanction of the Local Government whether such a post should be created or an employee should be dismissed.

As regards the salary, very few district or local boards appoint officers, the monthly salary of whom is above two hundred rupees. So it is more practical that the original provision of one hundred rupees or more should be retained.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of this motion.

The motion is very clear in stating its object. Appointment and dismissal of officers of district boards drawing a monthly salary of Rs. 100 or more should be referred to the sanction of the Local Government. This is the motion.

I do not know what can be said against it. You can say that it interferes with the authority of the district boards. And the authorities of the district boards are elected on the representative basis. They are the people's representatives; and therefore to handicap them, is to handicap the march of Democracy in our local institutions. This is the stock argument one can easily put forth.

But, Sir, this argument is fallacious and I will show it in a minute.

There is no good in denying the fact that there are party cliques, in our *mufassal* semi-government institutions, *e.g.*, district boards, municipalities, etc. Everybody knows the fact, though everybody may not admit it.

It generally happens that a really useful officer is dismissed and similarly an useless officer is appointed on account of these rather unavoidable party cliques. So there must be some check somewhere against this mal-practice. And the ultimate sanction of the Local Government will act as such a check.

Local Government, Sir, as everybody expects, will represent people's voice to a larger extent in the near future; or why this fuss about the Round Table Conference? So to wait for the sanction of the future Local Government is not to throw the district boards into the clutches of the now much abused anti-popular Government.

With these remarks, Sir, I support my friend Mr. Poddar.

3-15 p.m.

Dr. NARESH CHANDRA SEN GUPTA: I oppose this motion, Sir. It seems to me doubtful, after listening to the speeches of the two members who have just spoken, whether they represent the voice of the rural population of Bengal. I am afraid the hon'ble members are afraid to be deprived of their leading-strings. I am afraid that is not the mind of Bengal. I am sure that public opinion in Bengal is strongly in favour of the removal of all unnecessary control and supervision by Government, and this seems to introduce a power to control by Government, which is against the fundamental principle which was enunciated by the Hon'ble Minister in connection with the enactment of the Bengal Municipal Bill, *viz.*, that Government must be deprived of all powers of interference in the internal administration of local bodies. This proposal is hopelessly reactionary and out of date.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I am afraid I must oppose this amendment; and in doing so, I hope to satisfy both the Rai Bahadur and the mover of the amendment, as well as my friend Dr. Sen Gupta. The mover of the amendment is anxious to provide against party cliques. I do not know if that is possible by legislation, because, unless a local body is worked in the proper spirit, you can never get rid of the party clique by providing safeguards in the Statute. The power has been extended, but the limit is now raised from Rs. 100 to Rs. 200; but there is the safeguard which the mover of the amendment so much desires, *viz.*, that the power should vest in the Divisional Commissioner instead of in the Local Government. If my friend's suggestion is accepted, Writers' Buildings will simply be flooded with all sorts of applications.

On these grounds, Sir, I oppose the motion.

Rai Bahadur KESHAB CHANDRA BANERJI:—Sir, I support the amendment. It is a very reasonable proposal, and the apprehension entertained by the Hon'ble Minister is, I think, not based on reality, because such cases will be few and far between. A situation like this will seldom arise. I consider the amendment a useful one and I think proper provision should be made in the Act so that party cliques may not succeed in depriving particular persons of their appointments.

The motion was then put and lost.

The following motions were called but not moved:—

Babu SUK LAL NAG to move that in clause 29 (*2*), in line 2, for the words "two hundred," the words "two hundred and fifty" be substituted.

Dr. AMULYA RATAN GHOSE to move that clause 29 (*2a*) be omitted.

Maulvi ABDUL HAKIM to move that in clause 29 (*2a*), in proposed clause (*1a*), of section 33, in lines 1 and 5, for the words "the dismissal" the words "departmental punishment or of degradation" be substituted.

Babu KHETTER MOHAN RAY to move that in clause 29 (*2a*), in proposed sub-section (*1a*), in line 2, for the words "fifty rupees" the words "thirty rupees" be substituted.

Babu KHETTER MOHAN RAY to move that in clause 29 (*3*), in proposed sub-section (*3*), of section 33, in line 4, after the word "transferred" the words "by the Local Government" be inserted.

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, I beg to move that in clause 29 (*3*), in proposed sub-section (*3*), of section 33, in line 8, for the words "any provident fund monies" the words "any leave and provident fund moneys" be substituted.

Sir, it does not require much argument——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, to save the time of the House, I may say that Government are prepared to accept the amendment.

Mr. PRESIDENT: I think there should be a discussion on this point unless the House is prepared to accept it. In case, there is any discussion on this question, the Maharaja of Dinajpur should be given an opportunity to speak.

Maulvi SYED MAJID BAKSH: On a point of order, Sir. I submit that the words "any leave" are out of place in the clause itself. (Cries of "why".)

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I might point out that the words "any leave and provident fund moneys" have been drafted and incorporated in the clause by the Legislative Department. Government are prepared to accept the amendment with a slight modification, namely, for the words "any provident fund monies" the words "any leave earned by him and provident fund moneys" be substituted.

The motion, as amended, was put and agreed to.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 29, in proposed sub-section (*3*), of section 33, in line 8, for the word "any" the words "past service and" be substituted.

(The member was inaudible from the reporters' tables.)

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I think the amendment which we have just accepted will cover this case, for there is no question of pension. Leave and provident fund have been provided for. So, I do not think that this amendment is necessary. I oppose it.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 29, as amended, do stand part of the Bill.

The motion was put and agreed to.

Clauses 30 and 31.

Mr. PRESIDENT: The question before the House is that clauses 30 and 31 do stand part of the Bill.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 30, in the proposed amendment in section 35, in line 1, before the words "and in the case of the accidental death" the words "or to employees who have been disabled or crippled by accidents in the course of employment" be inserted.

Sir, provisions have been made for the grant of gratuity to employees who have lost their lives in the course of employment due to some accident. But there is no provision for the grant of gratuity to any person who is crippled or has lost his limbs, and is disabled due to accident in the course of his employment as a servant of the board.

Therefore I propose this amendment which I hope the Council will accept. If the family of a person who loses his life is entitled to get a gratuity after his death, I do not see any reason why the servant who is disabled or crippled, or becomes unable to pursue the ordinary avocations of life owing to accidents in the course of employment should not get any gratuity.

Babu HEM CHANDRA ROY CHOUDHURI: Sir, I rise to oppose this amendment because this amendment, is, I think, out of place here. In the clause, provision has been made for the grant of gratuity if the employee is dead. The proposed amendment suggests for gratuity being granted to the employee if he becomes disabled or crippled by any accident in the course of employment. I think this is out of place here, because clause 30 is concerned with employees who meet with accidental death. On these grounds, Sir, I oppose this amendment.

Mr. K. C. RAY CHOWDHURY: I rise to support this amendment on the ground that the Workmen's Compensation Act has been accepted in principle, although it does not apply to municipalities and district boards. In the case of permanently-disabled men, the employees should have the benefit of a gratuity. I, therefore, support the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept this amendment.

The motion was put and agreed to.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I beg to move that in clause 30, in the proposed amendment in section 35, in lines 4 and 5, for the words "would have been payable to such employee had he survived" the words "the district board may think fit" be substituted.

Sir, my amendment is a simple one, and, I do not think that there would be any objection to it. I want simply to substitute the words "the district board may think fit" for the words "would have been payable to such employee had he survived", because the words in the Bill do not convey any meaning. It is desirable that the district board should decide the question. Vagueness and ambiguity have been responsible for much trouble in the past and provisions of the law should be clear so as not to admit of various interpretations.

Mr. K. C. RAY CHOWDHURY: Sir, I strongly oppose this amendment because it is absolutely inhuman to leave the whole thing in the hands of the district boards. There must be some statutory obligations; otherwise, the district board members will not perform their duties properly.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support this amendment because, the words, "any gratuity payable to the employee" would have no meaning. There is no amount of gratuity fixed by any statute anywhere, which would be payable to a person if he had survived. Unless you fix the amount which should be paid by the district board, it will have no meaning.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the amount of gratuity to be payable has got to be fixed by rules, and I think, therefore, this amendment is not in order.

Mr. NARENDRA KUMAR BASU: I cannot understand how the amount of gratuity is to be fixed by rules, Sir.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the amount of gratuity will be covered by the system of calculation that will be provided for by the rules to be framed. So, I do not think it is necessary.

3-30 p.m.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I am afraid there has been some confusion about this section and the proposed amendment. Probably my friend Rai Bahadur Keshab Chandra Banerji thinks that gratuity should be paid to the heirs of a deceased employee even though the deceased employee by his length of service may not have earned that gratuity. There are certain rules about the payment of gratuity in the case of Government servants and the amount varies according to the length of service of the employee. What is meant here is that gratuity will be paid to the heir in a case where it would have been earned by the deceased if he had lived. But if a man dies before he has put in a certain amount of service and thereby has not earned the gratuity then in that case it will not be paid. If you want to make district boards more liberal than Government it is a different matter. It is the intention of the section that if an employee has put in a certain amount of service and for some reason or other he is disabled then he gets an amount of gratuity, but if he dies there is no rule that any gratuity should be paid to the heir. This rule has been put in to enable the district board to pay the amount of the gratuity to the heir. What the amendment aims at is quite different. It leaves option to the district board to pay gratuity to the heir of a deceased employee even if he had served the district board only for a month. That perhaps gives the district board too much and I think it should be opposed.

Maulvi SYED MAJID BAKSH: I beg to support the amendment. There is one difficulty which has been overlooked. Take the case of a man who has entered the service of the district board. He does not earn any gratuity before he has completed 15 years of service but before completing 15 years of service he dies. It is to provide for such cases in which gratuity has not been earned. Suppose a doctor or a public health officer contracts cholera in the course of his duties and loses his life (such a case actually happened in Midnapore) before he has completed 15 years of service, he gets no gratuity under Government rules because there is no provision in the rules. If a man did complete his 15th year of service then there is no difficulty about the payment of gratuity. The amendment aims at providing for the case of a man who has not earned his gratuity and for the grant of gratuity in cases of extreme hardship. I think discretion ought to be left to the district board in order to enable it to give him some money otherwise he will not get any gratuity under the rules.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I explain the point?

Mr. PRESIDENT: You have already spoken once.

Mr. C. C. SEN: May I point out to the hon'ble mover that district boards already have power under the substantive section to make rules providing for the contingency referred to? Rules can be framed for the grant and payment from the district fund of extraordinary pensions and gratuities to the families of deceased employees. [Section 35 read out.] Rules made under this section—section 35—will cover the cases mentioned by the hon'ble member. On this ground I oppose the amendment.

The amendment was put and lost.

Mr. PRESIDENT: The question before the House is that clause 30, as amended, and clause 31 stand part of the Bill.

The motion was put and agreed to.

Clause 32.

Mr. PRESIDENT: The question before the House is that clause 32 do stand part of the Bill.

Maulvi HASSAN ALI: I beg to move that in clause 32, in proposed sub-section (*2*), of section 49, in lines 4 and 5, for the word "Commissioner" the words "Local Government" be substituted.

I think any resolution passed by the district board without assent of the chairman concerning any expenditure which is not covered by the current budget should be submitted to the Local Government for approval instead of the Commissioner.

Rai Bahadur KESHAB CHANDRA BANERJI: I rise to oppose the amendment. It is known to everybody that under the Act the Commissioner sanctions the district board budget and if the Local Government is to interfere with the resolution passed by a district board there may be conflict of decision between the Commissioner and the Local Government because the Local Government may not always know what the Commissioner's opinion is in regard to a particular matter. It is better, therefore, that the matter should be left to the Commissioner.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That is exactly the point, as explained by the Rai Bahadur. The Commissioner under sections 48 and 49 of the Local Self-Government Act sanctions the budget and the budget of the district board has to be submitted to him for approval. So there would be two authorities over the question of expenditure of the district board, if the resolutions are to be submitted to the Local Government and the budget to the Divisional Commissioner. This will cause unnecessary difficulties. Then there will arise some conflicts. So I oppose this amendment.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 32 stand part of the Bill.

The motion was put and agreed to.

Clauses 33 and 34.

Mr. PRESIDENT: The question before the House is that clause 33 and 34 do stand part of the Bill.

The following motion was called but not moved:—

Mr. P. BANERJI to move that in clause 33 (*b*), after proposed clause 3 (*b*), of section 52, the following be added, namely:—

"Provided that the whole of the additional income of a district board derived under clauses (*3a*) and (*3b*) shall be reserved for the construction of new roads."

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 33 (*b*), after proposed clause (*3b*), of section 52, the following be added, namely:—

"(*3c*) all sums realised as fees and fines under section 100A or section 100C, or section 100D."

All fees and fines realised under sections 100A, 100C or 100D should go to the district board. With this object in view I have suggested the amendment.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This amendment is quite unnecessary. I will draw the hon'ble member's attention to section 62(*2*) of the Local Self-Government Act. The word "otherwise" is quite enough to cover the case.

Babu KISHORI MOHAN CHAUDHURI: I beg leave to withdraw my amendment.

The motion was, by leave of the Council, withdrawn.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 33, after clause (*3b*), of section 52, the following be added, namely:—

"(*3c*) all sums contributed to the district board out of the proceeds of the tax realised under the Bengal Motor Vehicles Tax Act, 1932."

Ben. Act I of 1932.

It may be said that this motion is also unnecessary because there is a clause in section 52 which may be said to cover my amendment. Technically speaking that may be so, but I think the income to be derived by district boards from the grants out of the proceeds of the Motor Vehicles Tax Act will be very considerable and as such I think there should be no doubt left as to this source of income. No harm will be done if the thing is made absolutely clear.

Mr. H. P. V. TOWNEND: Government have no objection to accepting the amendment provided it is made clear that the money must be spent on roads. To that effect the Legislative Department has drafted a proviso which it is proposed to insert in the Act. May I have your leave to add the following words:—

"Provided that the sums so contributed shall not be applied except for the purposes specified in clause fourthly of sub-section (*1*) of section 11 of the said Act."

Mr. PRESIDENT: To what clause will that be added?

Mr. H. P. V. TOWNEND: It would be added to clause (*3c*) proposed in the amendment: the wording of this would be retained as it stands.

Khan Bahadur Maulvi AZIZUL HAQUE: May I point out to the hon'ble member that it will probably be better to leave the section as it is for the simple reason that there is an express provision that the money contributed to the district board out of the proceeds of the motor vehicles tax should form a district fund and as such it will be treated as a separate fund and a separate account should be kept for it, if necessary, whereas if it be a part of the district fund it will be merged in the district board fund and a separate account will not be maintained. Government will do well to keep it as a separate fund under a statutory provision and for which certain statutory requirements are to be fulfilled.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In view of the difficulties which have been pointed out by Khan Bahadur Azizul Haque Government is not inclined to accept this amendment. I would request the mover to withdraw it.

Khan Bahadur Maulvi AZIZUL HAQUE: My point is that the district fund is governed by certain laws. This is a separate fund under a statutory provision for which certain statutory requirements are to be fulfilled and therefore a separate account is necessary for it. That being so, even if it is made a part of the district fund, a separate account will have to be kept for it in the district board accounts and I think it would be preferable to leave this fund separate.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I fully realise the difficulties pointed out by the Khan Bahadur but if the Government so decide that no separate account will be necessary that it will be treated as a part of the district fund, there cannot be any difficulty.

The motion was, by leave of the Council, withdrawn.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this amendment, *i.e.*, the next motion of Maharaja Jagadish Nath Ray, of Dinajpur, can only be discussed if amendment No. 114 is accepted by the House. This is a consequential amendment.

Mr. PRESIDENT: Then what about the clause now under review? I cannot put it if the Maharaja's amendment is put off. I think the best thing will be to postpone the consideration of the amendment and of the clause as well.

The question was thereupon postponed.

Mr. PRESIDENT: The question is that clause 34 stand part of the Bill.

The motion was put and agreed to.

Clause 35.

Mr. PRESIDENT: The question is that clause 35 do stand part of the Bill.

The motion was put and agreed to.

The following motion was called but not moved:—

Maulvi ABDUS SAMAD to move that in clause 35, in proposed section 53AA (*1*), in lines 1 and 2, after the words "Local Government may" the words "with the consent of the district board or on the application of the district board" be inserted.

Clause 36.

Mr. PRESIDENT: The question is that clause 36 do stand part of the Bill.

The following motion was called but not moved:—

Maulvi TAMIZUDDIN KHAN to move that clause 36(*1*) be omitted.

Maulvi ABUL QUASEM: I beg to move that in clause 36(*1*), in line 2, for the word "nine" the word "twelve" be substituted

Sir, one of the most important duties, if not the most important duty, of the Finance Committee is to audit the district board accounts. From my experience as a member of the Finance Committee of the District Board of Khulna, I can say that no duty is being more sadly neglected than this. Of all the duties that fall to the Finance Committee the duty of auditing the accounts has proved to be the least attractive. Very few members take to this duty kindly and with a will. The result is that practically little or no audit is being done and the legislature's intention that a strict check and vigilance should be maintained over the keeping of the accounts and the observance of all rules relating thereto by the office establishment, is being left unfulfilled. Sir, to give the hon'ble members an idea of the scope and extent of the work of audit, with your permission I should like to read out account rules Nos. 16 and 17.

Rule 16 says: "The Finance Committee appointed under section 55 of the Act shall audit the accounts of the district fund every month, and shall certify the result and the correctness of the account as audited by them in an audit certificate (Form No. 59), which shall be sent to the Accountant-General, by the 25th of the following month. If the meeting of the Finance Committee be delayed for any unavoidable reason, the certificate of the Finance Committee shall be sent as soon as it is ready."

Rule 17 says: "The Finance Committee, in auditing the monthly accounts, shall examine the registers and accounts enumerated in the audit certificate on Form No. 59, with a view to seeing that they are posted up to date, that they are maintained in the correct form, and that all the necessary columns have been filled in. They shall also see that all signatures or initials which each form requires have been given and have been dated. They shall verify the correctness of the cash-book by comparing it with the Treasury chalans and pass-book and with vouchers and counterfoils of cheques. The chairman's permanent advance account and the district engineer's imprest cash-book shall be carefully checked with the sub-vouchers and any questionable charges challenged. The acquittance rolls of the district board's and district engineer's offices and other payee's receipts shall be carefully scrutinised to see that all sums have been disbursed and receipts taken. The files of work abstracts shall be examined to see that the district board's accountant has initialled these in token of having checked the amounts with his own registers."

I should like also to read out the audit certificate which has to be signed by members of the Finance Committee:—

"We certify that the following registers and accounts have been posted neatly and punctually for the month of——; that they have been carefully scrutinised and audited by the Finance Committee, and that the errors and omissions have been brought to the notice of the vice-chairman and have been duly corrected."

Then follow the names of 11 registers and ledgers in the district board office and 10 books and registers in the district engineer's office. Then there is a further certificate which I need not read out.

Sir, account rules 217 to 219 require that a similar procedure should be carried out in respect of the annual accounts not later than the second month of the ensuing year.

From what I have said, Sir, it would be clear to all that the task of auditing is quite a formidable one and requires the co-operation of a good many members. Sir, in my district board, in the interest of economy, meetings of the Finance Committee to audit accounts are convened at noon of the ordinary monthly meeting day of the district board, the ordinary meeting being held in the morning. The quorum of a committee as fixed by the rules is three. Sir, the House may be surprised to learn but it is nevertheless a fact that this quorum is not always available with the result that on some dates no meetings can be held. Sir, those members who stay on till the end of a meeting cannot even touch the fringe of the task set before them. I beg leave here, Sir, to read out an extract from the audit notes of the Examiner of Local Accounts regarding the accounts of the Khulna District Fund for the year 1930-31.

"The accounts up to the month of February, 1930, were audited by the Finance Committee on the 20th September, 1930, as noticed in the last audit note. Since then there was no audit at all by the Finance Committee. Government circular Nos. 767-771 L.S.-G., dated 7th March, 1928, and repeated remarks of the Commissioner of the Division against the previous audit notes, impressing upon the board the necessity of conforming to the statutory duty imposed on them by rule 16 of the Account Rules, do not appear to have any effect."

Sir, this neglect of an essential duty happens in this way.

The Finance Committee is charged with the preparation of budget estimates and the allocation of grants under different heads. Naturally there is a strong desire on the part of many members to be on this Committee, but unfortunately their desire to do audit work is not equally natural and strong. Many of the more influential members get themselves elected to the Committee, but they generally keep away from or attend only for a short while the Committee when audit work is done. From what I have said and read out, Sir, members of this House will have gathered that for work of audit we require as many earnest, willing and capable members as possible. It is a work which requires much time and labour and is tedious and unpleasant to a degree. Therefore, Sir, I am strongly of opinion that cutting down the number of members to nine only would be no improvement on the present admittedly unsatisfactory state of affairs but would certainly be quite otherwise. You have always got to leave out certain members who will manage to be always on the Committee but who will do little or no audit work; the number of members to do justice to the audit work needs to be therefore not the bare quorum of three or thereabout but very much more. The law at present lays down no limit to the number of members who may be appointed to the Finance Committee. But if you make the number not more than nine, I am sure audit work will continue to be neglected or done perfunctorily as it is now. That, Sir, is the reason why I propose that the number should be raised to 12; so that leaving out those who will shirk their share of the work, there may remain a considerable number of members who will be in a position to tackle their task with anything like seriousness. Sir, I am not oblivious of the fact that in the present amending Bill some halting allowance to members engaged in audit work is being provided for. Sir, members of the district board are drawn from all parts of the district and follow different avocations in life. Members who have real willingness and aptitude for audit work are not many and they may not be able every month to devote more than a day to the work of audit in spite of the offer of halting allowance which, I imagine, cannot be sufficiently attractive.

Sir, the essential thing to remember is that to act up to the account rules regarding audit we require as many willing and competent

members as possible. Sir, taking into account our past experience and the difficulties of the situation, the number that I suggest, *viz.*, 12, is not at all large and should be accepted as the maximum strength of the Finance Committee if Government do really intend that audit work should be properly done by the Finance Committee and not continue to be neglected or perfunctorily done as at present.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid there is no salvation of a district board, the picture of which has been drawn by my friend who has just spoken. Merely adding to the number of members of the Finance Committee will not have the desired effect if the members do not take that much interest as is desired by Maulvi Abul Quasem. The original number seven was bad in itself, nine is fairly good, but 12 is hopeless. It will be very difficult to get a quorum the moment the members find that the number has been increased. I have experience of district boards and we have tried the experiment of having on the committee large number of members and we have tried the experiment of having a small number of members and we have always found that when the number is large there is always the difficulty of finding a quorum. My friend might as well propose the whole House to be on the committee. I think, Sir, in the circumstances, there is no point in the suggestion made by the mover of the amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I think Maulvi Abul Quasem has given excellent reasons why the number nine should be reduced to at least one-third. I have no experience of finance committees but according to him competent men who are available for audit work are not many. So, if the number is increased from 9 to 12 it would not improve matters. If even with the prospect of travelling allowance and halting allowance before them the members fail to attend the meetings of the committee I do not think that the members will take greater interest in the audit work if their number is increased. I am sorry that the facts presented by Maulvi Abul Quasem were not before us in the Select Committee, otherwise I would have moved an amendment to reduce the number.

4 p.m.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I am afraid the rather long speech delivered by the mover has rendered confusion worse confounded. At first I was inclined to support the amendment; but after hearing the hon'ble mover and the arguments advanced by the other speakers, particularly by Khan Bahadur Azizul Haque, I am in favour of retaining the number 9 instead of increasing it to 12.

The point is this: It does not matter at all whether the number is large or small. I can say from my personal experience of the District Board of Dacca, where there are 18 members on the Finance Committee, that I failed and failed hopelessly in inducing members to audit the accounts monthly as required by the rules in spite of repeated reminders sent by the Divisional Commissioner. Sir, it is not the number that counts; it is the interest taken by members in the affairs of a district board that really counts. I think the number should be 9 as it is in the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I confess the mover has exhausted the arguments both for and against his amendment, and I have practically very little to add. Personally, I have no experience of the working of the Finance Committee of any district board, but I have experience of a much bigger local body in this city and there the number of members was 12. I can tell you from my personal experience, that, not infrequently, there the quorum failed and meetings could not be held, although the number of members of that committee was 12. So 12 is no guarantee for a meeting being held, and the duties of the Finance Committee being properly discharged. In the existing Act there is no limit to the number. The words are "so many members as it thinks fit." A limit was fixed in the draft Bill by making it 7. The Select Committee suggested 9 and we accepted it by way of compromise. As you know, Sir, a district board generally consists of 21, 24 or, at the most, 30 members.

Rai Bahadur KESHAB CHANDRA BANERJI: And sometimes 33.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: But 33 is a very rare case. Out of this number 9 are going to be on this important committee. They have got important duties to discharge. The district boards have got not only to pay travelling allowances but halting allowances also. So it would be inexpedient, in view of these facts, to add to their numbers, especially as that is no guarantee of a quorum being present, or their duties being discharged within a limited time.

The motion of Maulvi Abul Quasem was put and lost.

Babu KHETTER MOHAN RAY: I beg to move that clause 36(2) be omitted.

Sir, I object to the inclusion of this provision in the Bill as a good deal of money of the district board will be frittered away thereby. Though there is a provision for audit by the Finance Committee, audit

is virtually done by the vice-chairman and other members who reside in the town. Now, if provision for allowing halting allowance is made in the Act, there will be a scramble amongst the *mufassal* members to get into the committee if not for anything else, at least to earn the halting allowance. District board accounts and other books are kept in English. But it was observed that the members who were ignorant of the English language were very eager to get into this committee.

There are other equally important committees of the board, such as the Public Works and Education Committees. There is no provision for allowing halting allowances to the members of these committees. I do not find any cogent reason why the members of the Finance Committee alone should be allowed halting allowances. Already we have heard complaints about the inordinate amounts of travelling allowances drawn by the chairman and members of some district boards. We should not provide for another loophole for the district board money being squandered away. From my experience of district boards for more than a quarter of a century, I can say that the audit made by the Finance Committee is perfunctorily done and I can predict that it will be done so in the future. No amount of halting allowance will right the matters. It is the Government audit which is valuable and corrects the district board when it goes astray.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I fully support the amendment moved by Babu Khetter Mohan Ray. I cannot understand why any provision should be made in the statute regarding the payment of daily halting allowances to the members of the Finance Committee, as the same has been provided for in the Account Rules prepared under section 130 of the Act. I think it is a very salutary and useful amendment because it is after all the district board that should determine whether or not any halting allowance should be paid to the members of the Finance Committee. I can say from my personal experience of the district board of Dacca that the Finance Committee consist mostly of residents of the sadar subdivision; so no travelling or halting allowance is required to be paid to them. In my district there are of course some *mufassal* members on that committee but they have voluntarily foregone the travelling as well as halting allowances. If the provision for halting allowance is incorporated in the statute, the members of the Finance Committee will claim it as a matter of right and the audit of accounts will seldom be finished within a reasonable time. Thus the district board will be subjected to unnecessary expenditure in cases where the auditing of accounts which can be completed quickly is dragged on to inordinate lengths. Besides, when the Account Rules already provide for the same, there is no reason why provision should again be made in the Act, which is entirely uncalled for.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support the amendment. From the long catalogue of duties of the Finance Committee read out by the mover, I think a provision of this nature would merely add to the dragging on of meetings of Finance Committees by men who are not really able to audit the accounts, and I do not know why this special favour has been shown to the Finance Committee in contradistinction to other committees of the district boards.

Khan Bahadur Maulvi AZIZUL HAQUE: May I know from the Hon'ble Minister whether it is not a fact that, even if this motion were deleted, it would still be open to district boards to pay travelling and halting allowances under the usual rules?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: They may be paid travelling allowances but not halting allowances.

Khan Bahadur Maulvi AZIZUL HAQUE: If halting allowances are paid to the members of district boards, why should not the Finance Committee receive any halting allowance under the usual rules?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I must oppose the amendment. The duties of the Finance Committee under the Act should have been read out by the mover. The duties are very heavy. The section lays down that every district board shall appoint a Finance Committee consisting of so many members as it thinks fit.

It shall be the duty of such committee to prepare the statements, estimates and accounts required for submission under section 47, and generally to superintend all matters connected with the finances and accounts of the district board.

The Finance Committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Local Government in that behalf.

The duties of the Finance Committee are therefore heavy and in the interest of the administration of the district boards it may be necessary that the members of the Finance Committee should be paid halting and travelling allowances. Moreover, this provision is purely discretionary; the district board may or may not pay. If the members of district boards so desire they may refuse to pay: it is only a permissive clause, which Government want to retain here. Mr. Basu was pleased to remark that if this clause was put in it would mean prolongation of the work of the Finance Committee. I consider that it is a very uncharitable remark to make. The gentlemen who have to come from the interior of the district and have to stay in the district town to do their work, cannot expect them to meet their expenditure out of

their own pocket. Only yesterday, Sir, we were told that there were members of district boards who were unable to stand for election because they could not even collect Rs. 100 for deposit? How can you expect these men to be in the district town from day to day and meet their halting expenses and travelling allowances out of pocket? The proposal is absurd and Government have got to oppose it.

Dr. NARESH CHANDRA SEN CUPTA: May I ask the Hon'ble Minister whether he is quite correct in saying that this power is entirely discretionary? In the Bill the word is "may", which does not always mean discretion; and the way it has been put in, is this: "members of the Finance Committee may, when engaged in such audit work, be paid daily halting allowances." I am afraid this "may" will, according to the rules of interpretation, have to be interpreted as "shall". That is one difficulty. I do not, of course, say that I approve of the amendment. On the contrary, I appreciate the argument of the Hon'ble Minister that when people have to work at a distance from their home—work which is quite arduous—they are entitled to be paid halting allowances. But at the same time although the remark of Mr. Basu may seem to be derogatory to members of the Finance Committee——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I did not say "derogatory": I said "uncharitable".

Dr. NARESH CHANDRA SEN CUPTA: All right; it may be uncharitable to members of the district boards; but the fact stands that prolonged sittings of the Finance Committee take place not unoften for the purpose of adding to the travelling allowance of the members. I think, Sir, the solution of this may be obtained by rules which Government will have to frame. I think that it is quite open to Government to lay down a maximum of halting allowance for each member of the Finance Committee.

Khan Bahadur Maulvi AZIZUL HAQUE: The Hon'ble Minister, I am afraid, has not been able to explain to the House clearly the necessity of retaining this clause. I mean to say that even if a member of the Finance Committee presented himself in a meeting by travelling in the morning and leaving the headquarters the same afternoon, will he be entitled to claim halting allowances, or should he get only travelling allowance? If he is to get both, does the Minister mean to say that members of other sub-committees which are also important committees, namely, the Public Works Committee, the Education Committee, etc., are not to be provided with halting allowance but with

travelling allowance only, in case they travel from a *mufassal* station to the district headquarters? If that is so, why should Government make a special provision for the Finance Committee only and leave out the other committees?' Therefore, either make a provision in the clause by which everybody who attends a meeting of a committee will be entitled to ask for halting allowance, or entirely do away with this provision, leaving it to be operated by the general rules promulgated by the Government, on this subject. What is the situation to-day, Sir? It is proposed that the members of the Finance Committee should get travelling as well as halting allowances. I do not think, Sir, there is any bar to Government passing a resolution which will have the effect of making that clause either redundant or incomplete. That being so, I feel that Government must fully explain as to why they are leaving out other members of other sub-committees and showing special favour to the members of the Finance Committee? In case Government take the position that it is a very important subject, I do not see any reason why other committees which are equally important, should not be given this halting allowance. From the administrative point of view you do it subject to the usual rules. That being so, members of every other committee should also come within this category.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I answer the point raised by the Khan Bahadur? I do not want to make another speech but shall simply make a personal explanation. What I meant was that the Finance Committee had got certain duties which would require the members to stay in the district town from day to day. I do not think that it will be necessary to pay the members of the other committees, who come and go away the same day. This clause was put in on the recommendation of the chairman of district boards who met at a conference in Darjeeling in 1930.

Mr. H. P. V. TOWNEND: I would like to add one or two things to the explanation given by the Hon'ble Minister. Dr. Naresh Chandra Sen Gupta says that the word "may" should be interpreted as "shall"; but our legal advisers have advised us that the word "may" actually meant "may" in this case; it is not incumbent on every district board to pay the halting and travelling allowances of the members of the Finance Committee.

The motion was put and a division taken with the following result:—

AYES.

Bagerji, Mr. P.	**Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.**
Banerji, Rai Bahadur Keshab Chandra.	**Chaudhuri, Maulvi Syed Osman Haider.**
Basu, Mr. Narendra Kumar.	

Choudhury, Maulvi Nuzal Abear.
Chowdhury, Maulvi Abdul Ghani.
Das, Rai Bahadur Satyendra Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Lal Muhammed, Haji.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Poddar, Mr. Ananda Mohan.
Rahman, Maulvi Azizur.
Ray, Babu Bhotlar Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Ali, Maulvi Nassan.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Babu Jatindra Nath.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. C. P.
Hooper, Mr. C. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Leeson, Mr. C. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mukhapadhaya, Rai Sahib Sarat Chandra.
Nag, Babu Suk Lal.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Quasem, Maulvi Abul.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Hagendra Narayan.
Ray Chowdhury, Babu Satish Chandra.
Ray Chowdhury, Mr. K. G.
Reid, Mr. R. N.
Ross, Mr. J.
Roy, Mr. Sailesswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Samad, Maulvi Abdus.
Sarkar, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Mr. Girin Chandra.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

Ayes being 27 and Noes 51 the motion was lost.

Mr. PRESIDENT: The question is that clause 36 stand part of the Bill.

The motion was put and agreed to.

Clause 36A.

Mr. PRESIDENT: The question is that clause 36A stand part of the Bill.

The motion was put and agreed to.

The following motion was called but not moved:—

Rai Sahib AKSHOY KUMAR SEN to move that in clause 36A, in line 4, after the words "junior madrassahs" the words "and *tols*" be inserted.

(At 4-25 p.m. the Council was adjourned for prayer and it re-assembled at 4-40 p.m.)

Clauses 37, 38 and 39.

Mr. PRESIDENT: The question before the House is that clauses 37, 38 and 39 do stand part of the Bill.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, as this amendment relates to clause 37 of the Bill, my friend, the Hon'ble Minister in charge of Education, will move it. Perhaps, you have no objection.

Mr. PRESIDENT: No, he may do so.

The Hon'ble Mr. KHAWJA NAZIMUDDIN: Sir, I beg to move that in clause 37 for proposed clause (*b*) of section 63, the following be substituted, namely:—

"(*b*) make grants in aid of any schools or class of schools whether, the same be under public or private management, and of any libraries maintained for the public benefit and open to the public and on the managing authority of which the district board is represented.

In any district or part of a district where primary education cess is imposed under the Bengal (Rural) Primary Education Act, 1930, the district board, notwithstanding anything contained in this section, shall not make any direct grant in aid of any primary school recognised under section 54 of the said Act, in such district or part but the district board may, subject to any rules made by the Local Government under this Act, contribute to the District Primary Education Fund constituted under the Bengal (Rural) Primary Education Act, 1930."

When the Bengal Primary Education Act was introduced in the Council, an undertaking was given to district boards that they would not be called upon to contribute towards primary education after the imposition of the primary education cess. But, Sir, it is possible that in spite of Government not calling upon district boards to contribute towards primary education, the boards themselves may desire to do so voluntarily. In such a case, it will not be fair for Government to prevent district boards from doing so. Therefore, this provision has been inserted, *viz.*, that, subject to rules being made by Government, district boards can contribute to the District Primary Education Fund.

But the boards will not be allowed to give grants to such schools direct, because, under the Primary Education Act, district primary schools will be controlled by the district school board, and its funds will consist of primary education cess, contributions by Government and other voluntary contributions and donations.

Sir, once district boards start to make direct contributions to individual primary schools, there is likely to be trouble between district boards and the district school board. It has, therefore, been suggested that district boards, if so inclined, may make grants to the district school board, who will utilize it for the spread of primary education in those particular districts. So far as district boards are concerned, their contributions, if any, will be voluntary, there being no question of compulsion.

Babu KHETTER MOHAN RAY: Mr. President, Sir, so far as I remember, the Primary Education Act may be introduced in parts in any district or part of a district. Primary education may be made free in any district, though it may not be made compulsory. I do not quite see what would be the effect of introduction of the Act in part, if the amendment is accepted. Whether the district board will be debarred from granting any grants-in-aid to primary schools in case of part introduction, as suggested, is not clear. I hope the hon'ble mover of the amendment will make it clear.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: If they want to contribute anything for primary education, they may do so. It is only voluntary on their part as far as their contribution is concerned.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I do not see any reason for the difficulty felt by Babu Khetter Mohan Ray. Although all the provisions of the Primary Education Act are not to be applied at once to the whole Province when a cess is imposed under the Primary Education Act, in any area, certain consequences are sure to follow. One of these consequences is that a district education committee will take over the control of the primary education in the district. Therefore, I do not see any reason for the difficulty. The cess may or may not be imposed, but when it is once imposed, the education board will be working in that district. Sir, I am sure the whole House would greatly appreciate this amendment as a much-needed reminder, that there is such a thing in Bengal as the Primary Education Act.

The motion was put and carried.

Mr. PRESIDENT: The question is that clause 37, as amended, and clauses 38 and 39 do stand part of the Bill.

The motion was put and agreed to.

Clauses 40 and 41.

Mr. PRESIDENT: The question is that clauses 40 and 41 do stand part of the Bill.

The following motion was called but not moved:—

Rai Sahib AKSHOY KUMAR SEN to move that for clause 40 the following be substituted, namely:—

"40. In section 73 of the said Act, as in force in non-union board areas and in the same section as in force in union board areas after the word 'buildings' the words and brackets '(including the soil and sub-soil beneath those properties)' shall be inserted."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: With your permission, Sir, I beg to move that in clause 40 in the proposed explanation to section 73, in line 2, after the word "other" the word "immovable" be inserted.

The motion was put and agreed to.

Mr. SARAT KUMAR ROY: Sir, with your permission I should like to move my amendment in a slightly amended form, so that it might be quite in keeping with the proposals of the Bill. I beg to move that in clause 40 to the proposed "Explanation" to section 73, the following proviso be added:—

"Provided that such control and administration shall not affect in any way the fishery rights of any person in any channel."

Mr. PRESIDENT: Yes, you have my permission to move your amendment in the amended form.

Mr. SARAT KUMAR ROY: Sir, the Select Committee agreed to exclude mineral rights from the operation of this clause. But I am sorry that the case of fishery rights has escaped their notice. In lower Bengal, there are fisheries all over the country. In many cases, two or more fisheries are connected together by channels or a *bhil* is connected with a stream by channels passing under culverts or bridges belonging to the district board. It would be a great injustice to the owners or lessees of fisheries if they were divested of their fishery rights over such streams and other connecting channels passing under a district board road. In such an event, they will eventually lose a substantial and valuable interest in their immovable properties. As an illustration, I may be permitted to mention the case of a *bhil*, connected with a river by means of a channel passing under a bridge or a culvert of a

district board road. Suppose, after the passing of this Bill, the district board closes the bridge or culvert by erecting a dam there or lets out the fishery rights in the channel to some other person. Will not this operate as a virtual closing of the fishery in the *bhil*? Will not the owner of the *bhil* suffer considerable loss and injury thereby?

Sir, certainly he will. But can he claim compensation for it from the district board if you divest him altogether of his existing interests in the connecting channel passing under a district board road, and that with retrospective effect?

I may recall to you, Sir, the fact that the construction of a bridge or a culvert over such connecting water-courses was made in many cases to avoid interference with, or an undue encroachment upon, such private interests.

Sir, I therefore consider it inexpedient to deprive private individuals of their interests in immovable properties by this indirect legislative bar to the enjoyment of those rights.

Fisheries exist rather more extensively in rural Bengal than mineral rights. I say, therefore, that the case of fisheries deserves our attention as much as that of the minerals. A vast population will be affected by such loss of fishery rights.

I, therefore, suggest that the rights of fishery in the channels and other water-courses beneath the district board bridges, culverts, etc., be reserved for the owners thereof, and that the latter should be allowed an uninterrupted enjoyment thereof.

Hence, I move that a proviso be added after the "Explanation" at its end, *viz.*—

"Provided that such control and administration shall not affect in any way the fishery rights of any person in any channel."

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government are prepared to accept the amendment.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 40, as amended, and clause 41 do stand part of the Bill.

The motion was put and agreed to.

Clause 42.

The following motions were called but not moved:—

Rai Bahadur SATISH CHANDRA MUKHERJI to move that in clause 42, in line 2, after the word, figures and letter "section 78A"

the words "and in that section as re-numbered after the words 'any road' the words 'or part of a road', shall be inserted" be inserted and in that clause, in proposed sub-section (2) of section 78A, in lines 1 and 2, after the words "any such road" the words "or part of a road" be inserted.

Maulvi ABDUL HAMID SHAH to move that in clause 42, in proposed section 78(*A*) (2), in lines 1 and 2, after the words "any such road" the words "or part of a road" be inserted.

5 p.m.

Babu SUK LAL NAG: I beg to move that in clause 42, in proposed sub-section (2) of section 78, in lines 1 and 2, after the words "any such road" the words "when such road is seriously damaged or is under repair" be inserted.

In moving this amendment I beg to point out that an anomalous position will be created if the proposed words referred to in my amendment are not inserted. As a matter of fact, as the proposed section stands, without any reason having been assigned for closing any road to all traffic or to any particular class of traffic, there will be a good deal of discontentment and ill feeling created between the chairman and the public. In order to avoid all these troubles that may arise in future, I proposed for the insertion of the words in my amendment. If the chairman is empowered to close the roads, though temporarily without any reason whatsoever, he may utilise this power to his own advantage. As for instance, at the time of election if the chairman finds that he or his party is going to be opposed by another powerful party, the chairman may take advantage of his position and block the road for a certain time, by which the voters of the opposite party are likely to come to the polling station for recording their votes against the chairman or his party. So there is every likelihood of exercising the power arbitrarily by the sitting chairman. So it is absolutely necessary to put a sort of safeguard against the abuse of this power for the reason which I have suggested in my amendment.

Rai Bahadur KESHAB CHANDRA BANERJI: I oppose the amendment. The mover anticipates certain difficulties which will, I think, very seldom arise. In his speech Mr. Nag has not explained as to who is to judge whether a road is seriously damaged or is under repairs. That is the main point on which the whole question hinges; besides, it will result in litigation. Suppose a road or a part of a road is closed by the chairman for very urgent reasons, who is to judge whether that particular road is seriously damaged and is actually in need of repairs? I am positive that such a provision as this will give rise to complications and be the subject-matter of litigation in civil courts.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have to oppose this amendment. The grounds advanced by the hon'ble mover are essentials of election; I am sure this House will not deprive the candidates of its excitement. The reasons may only be of traffic. There are 101 grounds on which a district board may have to close its roads at a particular time. If the amendment is accepted it will unduly limit the powers of the district board and such limitation would be undesirable.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 42 do stand part of the Bill.

The motion was put and agreed to.

Clause 43.

Mr. PRESIDENT: The question before the House is that clause 43 do stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 43 in the proposed proviso to section 86, in line 4, for the words "ten thousand" the words "twenty-five thousand" be substituted.

Sir, unless this is done it is a serious handicap for a district board to carry out any big scheme for the benefit of the district. To limit the amount to Rs. 10,000 is certainly a too small amount and any scheme for improvement, if it will require the sanction of the Government, will be too much delayed. Government, I know, when such schemes have been sent to them have delayed unduly and that delay oftentimes caused abandonment of many schemes which the district board thought of doing for the benefit of the district. Therefore I think that any scheme above Rs. 25,000 might be sent to the Government for obtaining their sanction, but anything below that amount should be left to the district board and the district board ought to have the power to carry out their schemes, if the amount estimated for such schemes does not exceed Rs. 25,000.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have to oppose this amendment. Dr. Ghose has said that Government sanction has sometimes caused undue delay which compelled the district board to abandon such schemes. I am sure that those schemes were not in the interest of the district itself but in the interest of the persons for the time being in power in the district board; otherwise the delay of a few months would never have induced the district board to abandon the schemes that were really in the interest of the district as a whole.

In the existing rule an amount has been provided for different districts according to their income, for instance in the case of Bankura, Birbhum, Bogra, Pabna and Malda, Rs. 2,000, and in the case of Faridpur, Hooghly, Jessore, Khulna, Murshidabad, Nadia and Noakhali, Rs. 5,000, while in the case of districts like Bakarganj, Burdwan, Chittagong, Dacca, etc., Rs. 15,000 is the limit. Government have raised this amount to Rs. 10,000 uniformly. I think that is a substantial improvement which will work satisfactorily for all districts and there is no reason why the limit should be raised to Rs. 25,000. Rupees 25,000 is a high limit which will not be reasonable for all district boards. It should be regulated according to their income (that is the existing provision in the rules) but in order to bring the limit to the same level Government proposed the uniform rate of Rs. 10,000 and this has been accepted by the Select Committee. I do not see any reason why it should be changed and the limit should be raised to Rs. 25,000.

The motion was put and lost.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 43 in the proposed proviso to section 86, in line 4, for the words "ten thousand" the words "fifteen thousand" be substituted.

This amendment is a little one. The amendment is wherever at present the limit of Rs. 15,000 remains that should be unaffected.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I do not see any reason why it should be accepted. There is the minimum provided.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 43 do stand part of the Bill.

The motion was put and agreed to.

Clause 44.

Mr. PRESIDENT: The question before the House is that clause 44 do stand part of the Bill.

Maulvi ABDUS SAMAD: I beg to move that in clause 44(*2*) in proposed clause (*ai*) of section 86A, in lines 1 and 2, after the words "vested in" the words "or under the control and administration of" be inserted.

The object is to make the meaning more clear and to remove any doubt as to the power of the district board to establish a toll under section 86 (*a*) (*1*), which runs as follows:—

"The district board may levy a toll on any road, except a *kutcha* road vested in the district board, which has been constructed or reconstructed by or on behalf of the district board."

It may so happen that the district board has control over some roads which are also under the management of the district board but which are not actually vested in the district board. According to the wording of the section the district board is entitled to levy toll on any road which has been constructed or reconstructed on its behalf. In order to make the meaning more clear and to avoid future litigation and uncertainty I suggest that the words "or under the control and administration of the district" be put in.

Babu KHETTER MOHAN RAY: I support the amendment moved by my hon'ble friend Mr. Abdus Samad. There are some roads under the control of the district board which is from time to time repaired and reconstructed by the board. Sometimes doubt is expressed as to whether such roads are vested in the board. Because these roads are not acquired nor are made over to the board by any registered document by their proprietors. In order to make the meaning clear, the amendment should be accepted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am afraid this amendment has been moved under a misapprehension. I draw the hon'ble member's attention to section 75 of the Act where it is said that every road, building or other works constructed by a district board from the district fund shall be vested in the district board by which it has been constructed. So if the road is constructed or reconstructed by the district board it must vest in the district board and the word "control" will make it much wider and will go beyond the provisions of this section. There may be a road which really belongs to Government but which is under the control of the district board for the time being; that road will never vest in the district board. Therefore if this amendment is accepted it will be inconsistent with section 75.

The motion was put and lost.

The following motion was called but not moved:—

Babu KISHORI MOHAN CHAUDHURI and Maulvi ABDUS SAMAD to move that in clause 44(*2*) in proposed clause (*ai*) of section 86A, in line 3, for the words "or reconstructed" the words "reconstructed or improved" be substituted.

5-15 p.m.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that clause 44(*2*) (*d*) be omitted.

The original section reads as follows:—

"No toll-bar shall be established or tolls levied, on or in respect of any bridge, roadway or footway, the cost or estimated cost of which, as indicated in clauses (*a*), (*b*) and (*d*) of proviso (*1*), was or is less than ten thousand rupees."

I think the amount in the original section should be retained and it would be going too far to impose toll bars on a bridge or roadway costing only Rs. 5,000.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose the amendment. It is only to give district boards facilities to construct new roads and realise the expenditure by imposing tolls that this limit has been inserted and if this amendment is accepted the whole object will be frustrated.

The motion was put and lost.

Mr. PRESIDENT: The question is that clause 44 do stand part of the Bill.

The motion was put and agreed to.

Clauses 45, 46, 47 and 48.

Mr. PRESIDENT: The question is that clauses 45, 46, 47, and 48 do stand part of the Bill.

Mr. SARAT KUMAR ROY: Sir, I would again ask your permission to make an amendment to the amendment which I have proposed. With your permission, Sir, I beg to move that in clause 45 after proposed section 86AA, the following be added, namely:—

"Provided that if there be any existing private ferry within a distance of one mile of such road or bridge, the district board shall pay compensation to the owner of the ferry for the partial or complete loss of income from such ferry."

Sir, by this new provision of the law, district boards are going to be empowered to construct temporary fair weather roads, bridges, etc., wherever found expedient.

Indirectly this may lead to the virtual closing of an existing private ferry. This will certainly cause material loss to its owner. There seems to be no justification for depriving him of his existing income, for affording the district boards additional income by the construction of a new bridge.

Hence I submit, Sir, that the private owner should get proper compensation for the loss that he will suffer, as a consequence of the construction of the new bridge, etc.

I therefore move that the proviso just mentioned be added to this clause 45.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I am prepared to accept it.

The motion was then put and agreed to.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 45, proposed section 86AAA be omitted.

Sir, this is a new clause. In the original Act there is no such provision. I admit that such a provision will be in the interest of the district board, but at the same time may I point out that a great wrong will be done to other persons whose interest is likely to be affected by placing the district board in such a privileged position? Of course, when a district board construct a bridge, it has to acquire the ferry right at the place by paying some compensation to the proprietor or, as it happens in some cases, with the consent of the proprietor who may relinquish his right. This particular proprietor may have no grievance: perhaps sometimes it is in his interest or through his efforts a bridge is constructed. But what about others? There may be another person who owns a ferry right on the same stream nearby. Why should we make him suffer pecuniary loss in the interest of the district board or, as often happens, in the interest of another person who benefits by the construction of a bridge? If we sanction this proposal, we shall be simply robbing a person of his just dues. I am surprised the Hon'ble Minister has not taken into consideration the point of view of the aggrieved person. Then, there is another point. As it stands the clause appears to be an impracticable proposition. I shall make my point clear by an illustration. Suppose there is a big *hat* on the bank of a river and a small stream flows into river near about the place. A bridge may be necessary or useful over this stream in getting access to the *hat*. But if you stop all ferry across the main river, how are the people from the other side of the river to come to this *hat* or a place on the *hat* side of the river? I submit, Sir, that, in view of the practical difficulty in the way and in view of the hardship such a provision is likely to cause to the people, this clause should be omitted. In any case, if it is necessary to provide

some protection to the district board, then the clause should be amended by inserting a provision for compensation to other interests affected and also by limiting the operation of the clause to the stream across which a bridge is constructed. I find the Hon'ble Minister has accepted a provision about awarding compensation so far as temporary roads and bridges are concerned and I think he will have no objection to extend similar relief in case of permanent bridges.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: That point does not arise here.

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir, in connection with the temporary bridge. I suggest this because after hearing the Hon'ble Minister I might not press for the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, after the acceptance of the previous motion moved by Mr. Sarat Kumar Ray by which compensation will be given to private ferry owners, it becomes absolutely essential that this amendment should be rejected. Under the statute the district board or the Government has the right to declare a private ferry nearby and unless there is a provision that in future nobody will be able to construct a private bridge or ply a private ferry within a certain distance of any bridge, then everybody will start a private ferry whenever they come to know that the district board is going to construct a bridge, with a view to getting compensation.

Mr. SHANTI SHEKHARESWAR RAY: Sir, there is no question of ferry here. This only deals with bridge.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, we are dealing with amendment No. 103 and I hope the hon'ble speakers will confine themselves to that item.

Khan Bahadur Maulvi AZIZUL HAQUE: I am confining myself to amendment 103. Section 86AAA reads as follows:—

"Except with the permission of the District Magistrate no person shall construct a private bridge or ply a private ferry, whether charges are made for the use of such ferry or not, within a distance of one mile of any bridge on which the district board is authorised to levy tolls under section 86A or section 86AAA."

So both these are included in the clause. Supposing, Sir, a district board wants to start a ferry. Immediately a private party can start a ferry and get compensation.

Mr. SHANTI SHEKHARESWAR RAY: There is no question of a ferry at all within one mile of a bridge.

Khan Bahadur Maulvi AZIZUL HAQUE: Whether it is within one mile of a bridge or within one mile of the Council House it does not matter. I am concerned with ferries started by district boards and we should see that there is no accrual of rights by private party. Private persons cannot be allowed to start a ferry at any and every place and that being so, and having regard to the fact that Mr. Sarat Kumar Roy's amendment has been accepted, it is absolutely necessary that this amendment should be rejected.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, this is not a new clause. This provision was introduced in order to bring the section into line with section 1 of the Ferries Act where it has been laid down that "no person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry." That is the language of the Ferries Act. So it will be seen that it is not a new point.

As regards compensation, there is a provision—section 86 A(*1*) (*b*)—where it is laid down that compensation can be paid where it is found necessary to do so. So I do not think any such provision is necessary here, and I oppose the motion.

The motion was then put and lost.

(At 5-35 p.m. the Council was adjourned for prayer and it reassembled at 5-45 p.m.)

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 45, in proposed section 86AAA, in lines 1 and 2, for the words "District Magistrate" the words "chairman of the district board" be substituted.

Sir, my object in moving this amendment is to empower the chairman of the district board to grant permission to a person to ply a private ferry within one mile of any bridge on which the district board is authorised to levy tolls, instead of making it necessary for such private person to go to the District Magistrate for permission. Sir, I do not like that the two functions, namely, permission to levy tolls and permission to ply a ferry should be distributed amongst two authorities which this clause contemplates. Moreover, the chairman of the district board will have to approach the Local Government for sanction to construct a temporary bridge across any river and it is quite in the fitness of things that he should also be empowered to grant any private person permission to ply a ferry within a distance of one mile of any bridge constructed by the district board. If a private person applies, according to my proposal, to the district board for permission to ply a

ferry, the latter, in any case, under section 86AA, will have to approach the Local Government for sanction, and thus I think that will be a check on the action of the district board. My object is to do away with the inconvenience that might be caused to a private person by necessitating him to approach first the District Magistrate and again the chairman of the district board for some sort of permission regarding levy of tolls and may be something else. My proposal is that the chairman of the district board should not only have the power to levy tolls but also to give permission to a person to ply private ferries within one mile of the district board bridge, as he is in a better position to judge the necessity of such ferry. In any case, this will also provide a check on the action of the district board by the Local Government as explained before.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, I rise to support the amendment. This is perhaps the only reasonable amendment of Dr. Ghose which I feel inclined to support. If I remember aright, the Ferries Act has been amended and the words "District Magistrate" are now to mean "district board." I think a circular was issued by Government interpreting it to mean "district board." But it is in the fitness of things that the district board should be given this power and persons concerned should approach the district board instead of the District Magistrate.

Mr. SHANTI SHEKHARESWAR RAY: I oppose the amendment, Sir, on the ground that the district board or the chairman would be an interested party in this connection. So we should have an independent authority to decide whether there should be an exception or whether any special permission should be granted to private party to ply ferries. Obviously in a district it is the District Magistrate who can conveniently discharge that function.

Mr. SARAT KUMAR ROY: I also oppose this amendment, Sir, and agree with my friend Mr. Shanti Shekhareswar Ray that the District Magistrate is the fittest person to decide in such cases.

Maulvi ABDUS SAMAD: I beg to support this motion. The only ground on which it is urged that the District Magistrate should be empowered with the power of granting permission is that the district board is an interested body but, Sir, when the Ferries Act was passed all public ferries were under the control of the District Magistrate and the ferries did not vest in the district board. The District Magistrate was then an interested person, so what is the harm if on the same ground the district board is permitted to see that new ferries were not started

within a mile or two from the public ferries. The district board consist of representatives of the whole district and they are in a better position than the District Magistrate to say whether any proposed new ferry was really a *bona fide* new ferry or was started with the sole object of injuring the district board; the district board, Sir, is better fitted to see to it than the District Magistrate.

Mr. PRESIDENT: Do you want this power to be given to the district board or to the chairman?

Maulvi ABDUS SAMAD: To the district board, Sir.

Mr. PRESIDENT: But in this motion it is proposed to give the power to the chairman.

Maulvi ABDUS SAMAD: Then I am sorry I have been speaking on a wrong motion. I should have spoken on amendments Nos. 105 and 106.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I must oppose the amendment, Sir, because in the original Bill there was no such authority for granting this permission. The Select Committee introduced the District Magistrate and, I think, rightly so. The chairman is a representative of the district board which is a party and why should such permission be therefore granted by the chairman or the district board? It should be given by the District Magistrate if he thinks fit. On this ground, Sir, I oppose the motion.

The motion was put and lost.

The following motion was called but not moved:—

Mr. MUKUNDA BEHARY MULLICK and Maulvi ABUL QUASEM to move that in clause 45 in proposed section 86AAA, in lines 1 and 2, for the words "District Magistrate" the words "district board" be substituted.

The following motion was deemed to have been withdrawn as it was covered by the decision on a previous motion:—

Babu SUK LAL NAG to move that in clause 45 in proposed section 86AAA, in lines 1 and 2, after the words "District Magistrate" the words "and the chairman of the district board" be inserted.

Maulvi ABDUS SAMAD: I beg to move that in clause 45, in proposed section 86AAA, in lines 1 and 2, after the words "District Magistrate" the words "and district board" be inserted.

Sir, if the district board is inserted after "District Magistrate," the District Magistrate will be bound to consult the wishes of the district board and that would be some check upon the whims of any particular District Magistrate who may be inclined for some reason or other, to go against the interest of the district board. As I have already submitted, because the district board is an interested body there is no reason why the wishes of the board should not be consulted. This is a very reasonable amendment and I hope the Hon'ble Minister will accept it.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Suppose one of them disagrees then what will happen? So I oppose it, Sir.

The motion was put and lost.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I beg to move that in clause 45 in proposed section 86AAA, in line 2, after the word "construct" the following be inserted, namely:—

"across the same river, channel or dried up portion of a river bed."

As the clause stands I think it will cause great hardship, because it is proposed that there should be no ferry or another private bridge within one mile from a bridge constructed by the district board, that is, that within one square mile no one can ply a ferry or construct a new bridge. I do not see how one is to cross a river if one has to go to a particular place from another direction.

Mr. H. P. V. TOWNEND: Sir, when I first read this amendment I thought it was an extremely reasonable one, and there are cases to which it would apply very well indeed. But unfortunately there are also cases in which it would enable private persons to defeat the object of the other sections by which the district board is secured against competition from private ferries and bridges. If we have a river which forks and the district board put a bridge across the river just below the fork, the two rivers that join to make the main river may be described as separate rivers or streams: under this amendment it would then be open to a private person to build small bridges over these two rivers and thus compete directly with the bridge constructed over the main river by the district board. It is extremely difficult in the body of an Act to provide for every possible case in a province like Bengal, where there are thousands of rivers which join in all sorts of ways. It is very much better to do as the Select Committee would have us do, and that is to leave the matter to the discretion of the District Magistrate. We need not suppose that the District Magistrate would be foolish and perverse, or would refuse to give permission in the type of case that the hon'ble member moving this amendment has put before us. If there is a

separate river which is bridged by a private person within a mile of the river bridged by the district board, the District Magistrate will do anything necessary. I am, therefore, of opinion that it would be very much better to adhere to the wording proposed by the Select Committee. I oppose the amendment, Sir.

Maulvi SYED MAJID BAKSH: May I ask information on one point: if there is a bridge on two adjoining rivers, how will a person go into the land enclosed by these two rivers? (VOICE: That is a problem.)

Mr. H. P. V. TOWNEND: I have already explained that the District Magistrate will solve such problems.

The motion of Mr. Shanti Shekhareswar Ray was then put and lost.

6 p.m.

Mr. ANANDA MOHAN PODDAR: Sir, I beg to move that in clause 45, in proposed section 86AAA, in lines 3 and 4, for the words "whether charges are made for the use of such ferry or not" the following be substituted, namely:—

"Where charges are made for the use of such bridge or ferry."

Sir, this is a very important clause. By this you deprive a person of his right to construct a private bridge, or to ply a private ferry, within one mile of any district board bridge or ferry. By the proposed amendment you do not make any distinction whether such private ferry or bridge is for hire or not. There may be some justification in asking the owner of such bridge or ferry to get the permission of the District Magistrate when he is out to make pecuniary profit from such bridge or ferry, but I do not see why such a person shall be compelled to take the District Magistrate's permission when it is absolutely for his private use. Thereby you interfere with a person's private right. Supposing a person has his business concern or factory, which is situated on both sides of a channel or river; and that it is necessary that he and his men, his officers and labourers, etc., shall be required to cross the channel off and on. According to the proposed section, if there be a district board bridge or ferry within one mile of such factory or concern, the person will be put to a great deal of inconvenience and loss, if he is prohibited from constructing a bridge or plying a private ferry between his own lands. What justification is there to make such a person run to the District Magistrate for the construction of his private bridge or plying his private boat when he is not making money out of it.

Let us consider another case: a person of charitable disposition constructs a bridge within one mile of the district board bridge and allows passengers to pass over it free of cost. If this bridge be at a

place more suitable to the public and toll is not collected for its use, the public will naturally pass over it and give up the use of the district board bridge. By the force of this section the district board, or, for the matter of that, the District Magistrate may prohibit the person to make the charity in apprehension of the loss to the district board. In such circumstances, the existence of the proposed provision of law will be most undesirable.

Sir, nobody will take objection in restricting the construction of a bridge or plying of ferry where charges are made, but I take objection to the application of the section where there are no charges made for such a private bridge or ferry.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, the proposed section (86AAA), if accepted, is sure to interfere with the private rights of persons, where there is no intention of making any profit on the part of the owner of the bridge or ferry. I do not see why there should be any necessity of getting the permission of the District Magistrate. The traders will be the worst sufferers by the inclusion of this clause. In market-places, *hats* and *melas*, it is the custom that the big traders usually engage their own ferry-boats for carrying commodities and men across the river or channel that may be near about the market-place. You cannot interfere with his right to ply such a ferry. It may so happen that if you ask a man, who intends to build the bridge for charitable purposes to go to the District Magistrate for necessary permission, he may not at all be agreeable to the charity proposal. Moreover, a man may require a private bridge in his own land and for his own use, and if he allows the public to use it for their convenience, you cannot compel him to get the District Magistrate's permission for building such a bridge.

For the above reasons, I support the amendment of my friend Mr. Ananda Mohan Poddar to exclude bridges and ferries, where no charges are made, from the operation of this clause.

Mr. H. P. V. TOWNEND: Sir, this is another very plausible amendment which, at first sight, commends itself to every one. The objections raised against the proposed section would have been more convincing if the Bengal Ferries Act had not provisions similar to those which are proposed here. Experience has shown that all these evils which have been anticipated by the hon'ble gentlemen, who have moved and spoken in support of this amendment, will not follow.

Then, again, Sir, there is this further fact that their arguments have not met the precise point which is at stake. The idea behind this clause is that district boards shall be in a position to build bridges for the convenience of the public by raising funds in the manner here provided. It is essential, Sir, that they should be secure, in building the bridges,

against any loss of income by competition. The competition of a free ferry is very much more important than the competition of a ferry for which tolls are charged by the owners. When we are asked to accept this amendment, we are, therefore, asked to put in a provision, in the interest of the land-owners (or rather I should say, ferry-owners), which would entirely defeat the main provision already accepted by the House. I think the supporter of the amendment has said that it is very unfair to the poorer classes of people to forbid ferries out of which no one has any intention of making profit. That is not exactly the point. It is necessary to debar people from running ferries with the intention of causing loss. In a district where I was Deputy Commissioner, I mean Jalpaiguri, the people of a certain bazar sent a petition to the district board for a bridge to be built, and they stated in that petition that they were willing to pay tolls for the costs of the bridge. The bridge was built at a cost of over Rs. 60,000, and it was opened amidst general public enthusiasm; then the very bazar people who had signed the petition started private ferries, during the rains; I beg your pardon, they started private ferries in the hot-weather on the ground that it was unreasonable to charge tolls for the use of the bridge in the hot-weather, as the stream was then practically dry. It was done deliberately to evade the tolls. The district board was thus put to great loss, and the chairman said that he was unable to pay the loan charges. It is that sort of thing that the amendment seeks to perpetuate. I, therefore, oppose the amendment.

Mr. P. BANERJI: Mr. President, Sir, I beg to support the amendment. The amendment, in my opinion, is a most reasonable one, and I naturally expected that the Hon'ble Minister would at least accept it. In the amendment it has been provided that charges should be made for the use of such bridges or ferries, and they want to make an exception in the case of such bridges or ferries where no charge is levied.

Sir, Mr. Townend in opposing the amendment has said that the intention is to stop any pecuniary loss to the district board; but there is another side of the question. I beg to submit, Sir, that the case of the poor people have not at all been taken into consideration. If it is suggested that all persons will have to pay for the use of the ferries, and if any philanthropic gentleman comes forward, he is debarred from doing anything for the good of the public Sir, the district boards always plead want of funds just as Government do, and their roads are not in proper repair and their bridges in the rural areas are in a hopeless condition, for which the people suffer most. Sometimes, the bridges are constructed by the people with bamboo poles which are very risky to use. Under the circumstances, Sir, if any philanthropic gentleman proposes to supply ferries free of charge during the rains or to pay for the construction of a bridge to commemorate the memory of his ancestors, in that case, even, he will be debarred from doing such a noble act.

Under the circumstances, Sir, it is in the fitness of things that the Hon'ble Minister will reconsider his decision and accept this most reasonable proposal.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I rise to support this amendment. I am afraid the Hon'ble Minister and some other members, who are inclined to safeguard the interests of the district boards, have not considered one aspect of the question. That aspect is, that if you make the construction of a bridge by the district board a matter which is likely to cause great hardship and inconvenience to the people of the locality or if it adversely affects the interests of local *zamindars*, it will be very difficult to get public support in connection with the construction of new roads or new bridges. It is no use saying that in the first flush of enthusiasm, with the prospect of having a new bridge, people may agree to pay for it; and that when a bridge is constructed, they want to avoid payment of the toll. In that case, the district board ought not to take upon itself the burden of constructing a bridge. As I have already pointed out, these bridges are constructed in the interests of some persons or rather some big landholders or proprietor of a big *hat* who gets a convenient access to some district headquarters or to some other centre of trade by having a bridge constructed over the district board road, and so in the interests of such persons, people belonging to the poorer classes suffer. When representations are sent to the district board, they are more or less done at the instance of persons who derive benefits from the construction of the bridge; and, later on, these people come to realise the fact that the bridge instead of being a blessing is really a curse (ironical cheers). I hope, Sir, in safeguarding the interests of a district board, the friends of the poor will see that we do not pass any legislation detrimental to their interests. Sir, I should like to point out that this legislation is likely to cause hardship to the poor people.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid my friend, Mr. Shanti Shekhareswar Ray, has forgotten the tradition that the poor man's friend always remains poor. Sir, one must also remember that there are occasions when the real friends of the poor intervene by way of self-interest. I shall now narrate a personal experience.

We have got in the district board of Nadia a certain ferry and an influential gentleman has established an institution about a mile off. He has the right to use his own boat to cross an intervening stream. Some time after, he had a difference of opinion with the ferry-owners, because he wanted his men to cross the stream at a very small cost. Then what he did was to circulate a report in the locality that his private boat would be available for every villager to cross the stream. Now, I want to put a question to Mr. Shanti Shekhareswar Ray:

"Where is the provision in the law by which he can put a stop to this sort of thing?" Sir, it has been pointed out that so far as private rights are concerned, there is nothing in the law that can jeopardise the use of it. I am afraid it will be desirable to leave things as they stand. I oppose the amendment sponsored by my friend Mr. Ray and supported by other friends.

6-15 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Mr. Banerji, who was the first speaker to support this amendment, said that it would debar some generous persons who are very charitably disposed from the act of charity in the interest of the poor. I may say that there are better objects of charity and they can easily divert their money to those objects. Certainly they cannot deprive the district board of the toll for realising the money which they have spent in putting up bridges. I do not think I need debate on that point any further. My friend Mr. Shanti Shekhareswar Ray has appeared in different rolls within the last half an hour in this House. As a representative and friend of the landlords just half an hour ago he urged the case of ferry-owners. Ferry-owners are not poor men but still he wants to legislate in their interest as if they are poor and indigent persons. Now he urges the case of the poor and says that bridges are put up only in the interest of *hat* owners. Perhaps that is his personal experience, but I am sure that is not the experience of the other 138 members in this House. The district board is supposed to act in the interest of the general public including the rich and the poor. They do everything in the general interest of the district and not in the interest of a particular class or community. So it is only reasonable that they should be given adequate facilities for realising the money spent in putting up bridges for the use of the public. This amendment, if accepted, will be used as a subterfuge to deprive the district boards of their income from tolls.

Mr. Townend has fully explained how this privilege can be misused. It is his experience as a District Officer and I am sure there are many of us who had such experience elsewhere.

So I oppose the amendment.

Rai Sahib PANCHANAN BARMA: I oppose this amendment. My experience is that if there is a bridge within four miles of a ferry people seldom use the bridge. If new ferries are established where there are bridges nearby traffic will be diverted and no one will be able to thrive. So I oppose this amendment.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 45 in proposed section 86AAA, in line 5, for the words "one mile" the words "two miles" be substituted.

I did not mention it in my note of dissent to the report of the Select Committee because I wanted to limit my note of dissent only to the most important and essential points. But we now realise that if the area be reduced from two miles to one it would deprive the district board of its income and the section will practically be infructuous. On this ground I have moved the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: I support the amendment of the Hon'ble Minister because if two miles be not the limit the entire provision of this Act will be infructuous. Two miles is the standard of calculation of distance in a river and it has always been the limit of calculation also on roads. One mile would be so near that the section will be practically useless. The case to which I was referring occurred in regard to a charitable institution started in Malda; there the provision was misused because that was exactly within a distance of 1½ mile. Unless this provision is made it will be very difficult to make the Act operative in the interest of the district boards.

Babu KISHORI MOHAN CHAUDHURI: From my actual experience I can say that this amendment is necessary.

Mr. NARENDRA KUMAR BASU: On a point of information, Sir. May I ask whether by one mile is meant one mile by land or one mile by water-way?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: By the water-way.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Maharaja JAGADISH NATH RAY, of Dinajpur: I beg to move that in clause 45, to proposed section 86AAA, the following be amended, namely:—

"Provided that nothing in this section shall interfere with the existing ferry rights of a person."

Sir, the proposed section 86AAA confers illimitable powers on the district board as well as the Local Government, to construct a bridge across any river, and to levy tolls to defray the expenses, etc., incurred thereon. No one can object to the idea behind it. On the other hand, I consider it very necessary that the Government or the district board should have such powers when a linking up of the opposite banks is

called for in public interest. But it must be seen that no existing private rights or interests are sacrificed, without any kind of mercy or consideration, in the advancement of public good. When existing private rights prove an obstacle to legitimate public good, due compensation ought to be arranged for to meet the difficulty; and it is meet and proper that the same should be clearly stated to avoid any misunderstanding in future.

Mr. SARAT KUMAR ROY: I support the amendment moved by the Maharaja Bahadur.

Khan Bahadur Maulvi AZIZUL HAQUE: I oppose this amendment. Mainly because a man possesses a ferry already is it meant to say that the right to have it, where it exists, will preclude the district board to have a ferry? As a matter of fact section 86A stands in the way of an accrual of any more rights to have ferries. The result of the amendment will be to nullify the effect of the section which lays down that no person shall construct a private bridge or ply a private ferry if we say that the existing ferry rights of a person shall not be interfered with. This will be absolutely inconsistent. So I oppose the amendment.

Mr. SHANTI SHEKHARESWAR RAY: I support the amendment. I would like to point out that the position of Khan Bahadur Azizul Haque has always been that he does not want to interfere with the existing rights and he does not want that any one should exploit the district board by constructing new ferries or new bridges. Therefore I do not see why here he should object in case of existing rights. I think he ought to be clear on that point and I think the Maharaja of Dinajpur has done the right thing in moving this amendment with a view to clarify the situation.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We have already accepted amendment No. 102 which stood in the name of Mr. Ray. As we have accepted the principle of compensation I do not think we can go any further. If any profit is taken away one can claim compensation. So I oppose the amendment.

Mr. SHANTI SHEKHARESWAR RAY: Does the previous amendment cover this section also?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes.

The motion of Maharaja Jagadish Nath Ray, of Dinajpur, was then put and lost.

Mr. PRESIDENT: The question is that clause 45, as amended, and clauses 46, 47 and 48 stand part of the Bill.

The motion was put and agreed to.

Clause 49.

The following motion was called but not moved:—

Maharaja JAGADISH NATH RAY, of Dinajpur, to move that after clause 48 the following be inserted, namely:—

Insertion of new sections 86N to 86T.

"49. After section 86M of the said Act, the following sub-heading and sections shall be inserted, namely:—

'D (2).—The registration of bullock carts.

Registration and numbering of bullock carts.

86N. (*1*) When it has been determined that a tax on bullock carts plying for hire shall be imposed, the district board at a meeting may make and publish an order that every bullock cart, which is kept for such a purpose within the district, shall be registered by the district board with the name and residence of the owner, and shall bear the number of registration in such manner as the district board shall direct:

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

(*2*) This section shall not apply to—

(*a*) bullock carts which are the property of the Government or of the district board; and

(*b*) bullock carts which are kept without the limits of the district board, and are only temporarily and casually used within such limits.

Fee for registration.

(*3*) The registration of bullock carts shall be made and the numbers assigned yearly or half-yearly, on such days as the district board shall notify.

Proportionate payment of fee.

86O. The fee payable for the registration of a bullock cart under section 86N shall be six rupees if the registration has effect for one year, and three rupees if the registration has effect for half a year.

86P. Any person becoming possessed of any bullock cart plying for hire which has not been registered for the then current period of registration shall register the same within one month from the date on which he has become possessed thereof, and the district board shall grant registration in any such case on payment of such amount of the fee as bears the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration

bears to the whole of such period; and such fee shall be calculated from the date on which such person shall have become possessed as aforesaid.

Transfer of ownership.

86Q. When the ownership of any registered bullock cart plying for hire is transferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such re-registration.

Bullock carts not to be kept without being registered and without number.

86R. No person shall keep, or be in possession of, a bullock cart plying for hire not duly registered as required by this Act, nor shall any person, being the owner or driver of any bullock cart plying for hire fail to affix thereto the registration number as required by this Act.

Seizure and sale of unregistered bullock carts.

86S. (*1*) If any person owns or keeps any bullock cart plying for hire without registering the same as required by this Act, the district board or any person authorised by it in this behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the animals, if any, drawing the same, and all police officers are required, on the application of the district board, or of any person duly authorised by it in that behalf, to assist in the same seizure.

(*2*) After such seizure the district board shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart and animals, if any, by auction at such place as they may state in the notice, and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the district board may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(*3*) The surplus sale-proceeds (if any) shall be credited to the District Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the district board or in a court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart and animals, if any, have been seized tenders to the district board or to the person authorised by it to sell the property, the amount of all the expenses incurred and the registration fee payable by him, the district board shall forthwith release the property so seized.

(*4*) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a bullock cart plying for hire and animals, if any, seized under this section, may be devoted to the payment of any fine imposed for a breach of the provisions of section 86R; and any property which has been seized under this section may be sold for the realisation of any such fine.

Bullock carts used or registered in more than one district.

86T. (*1*) Nothing in sections 86N to 86S shall be deemed to authorise the levy of more than one fee for the same period in respect of any bullock cart plying for hire which is used for such a purpose in more than one district.

(*2*) When bullock carts plying for hire not kept within any district are so used in more than one district, the Local Government may, if it thinks fit, apportion between all such districts the registration fees paid under this Act in respect of such carts.

(*3*) Where a bullock cart plying for hire is registered under this Act in more than one district, the district board of the district within which the cart is kept shall have a right to levy the registration fee in preference to the district board of any other district:

Provided that such right is claimed by notice to the other district or districts concerned within two months of the date on which the fee becomes due.

(*4*) Where any dispute arises between the district boards of any two or more districts regarding any claim made under sub-section (*3*) of this section, the matter shall be referred to the decision of the Local Government, and such decision shall be final.' "

Clause 33.

The following motion failed:—

Maharaja JAGADISH NATH RAY, of Dinajpur, to move that after clause 33 (*b*) the following be inserted, namely:—

"(*c*) after clause (*6*) the following clause shall be inserted, namely:—

'(*6a*) all receipts in respect of the tax imposed on bullock carts plying for hire within the district.' "

Mr. PRESIDENT: The question is that clause 33 do stand part of the Bill.

The motion was put and agreed to.

Clauses 50 and 51.

Mr. PRESIDENT: The question is that clauses 50 and 51 do stand part of the Bill.

The motion was put and agreed to.

Clause 52.

Mr. PRESIDENT: The question before the House is that clause 52 do stand part of the Bill.

Mr. SARAT KUMAR ROY: I beg to move that in clause 52 in proposed sub-section (*3*) of section 90, in line 7, after the words "or channel" the words "except fishery rights where such rights existed therein from before" be added.

Sir, I submit that although the object of sub-section (*3*) of section 90 of the Act is very laudable and it may be necessary, for purposes of public health, not to allow bathing, washing of clothes or animals, etc., in some portions of a stream used as a public water-supply, I am afraid, that under the meaning of this section, as it stands, pollution of water may be considered to include the exercise of fishery rights by persons interested in such portions of the stream or channel. This will cause material loss to those persons who may be owners or lessees of those portions. It will also amount to an interference with private rights. There are fishery rights of private individuals almost everywhere in rivers, streams, etc., in rural Bengal.

I therefore submit, Sir, that it should be made clear that exercise of fishery rights is not included within the meaning of the words, "any act, likely to pollute the water, etc."

I move, therefore, that the following words be added to this sub-section, namely, "except fishery right where such private rights existed therein from before."

Maharaja JAGADISH NATH RAY, of Dinajpur: I beg to support the amendment.

6-30 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment, firstly, because it is not a properly drafted amendment. Secondly, the purpose of the clause is the reservation of tanks or portions of streams in the interest of public health, for the supply of drinking water, and we cannot allow pollution in order to safeguard the interest of owners of fishery rights. So we have to oppose it.

The motion of Mr. Sarat Kumar Roy was then put and lost.

Maulvi ABDUS SAMAD: I beg to move that in clause 52 in proposed sub-section (*3*) of section 90, in line 7, after the words "or channel" the following be added, namely: "and may similarly prohibit the use of any private tank for any purpose other than the supply of water for drinking." My intention is to restore the portion deleted by

the Select Committee. This is necessary in order to empower district boards to prohibit the use of any private tank for any purpose other than the supply of drinking water. When district boards are empowered to prohibit the use of any private portion of any stream, there is no reason why their power should be restricted in the case of private tanks, which should also come within the purview of this section.

Babu HEM CHANDRA ROY CHOUDHURI: I rise to oppose this amendment. If it is accepted, I think the right of private persons to use their own tanks will be interfered with. It is not uncommon that some tanks are often used for washing utensils and clothing. If the use of these tanks be prohibited, I think great hardship will be caused to the owners thereof and to the people of the locality.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: This is a change which has been recommended by the Select Committee, because they thought that it would interfere too much with private rights. I am, however, prepared to accept in a modified form the next amendment standing in the name of Maulvi Tamizuddin Khan, namely, if the owner of a private tank gives permission in writing, such reservation may be made. But I believe it would be interfering too much with private rights if this amendment is accepted. So in view of the acceptance of the next amendment in a modified form, I hope the mover will see his way to withdraw this amendment.

The motion of Maulvi Abdus Samad was, by leave of the Council, withdrawn.

Maulvi TAMIZUDDIN KHAN: Sir, I beg to move the amendment standing in my name in a slightly modified form: that in clause 52 to proposed section 90 (3) the following be added, namely: "and may, if the owner of any private tank gives his consent in writing, similarly prohibit the use of such tank for any purpose other than the supply of water for drinking". By putting it in this form, the objection to the original clause in the Bill, namely, that it will interfere with private rights, will be removed. If the consent of the owner of a tank is taken, then there can be no conceivable objection to the use of such a tank for public purposes.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I accept the amendment.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 52, as amended, do stand part of the Bill.

The motion was put and agreed to.

Clause 53.

Mr. PRESIDENT: The question is that clause 53 do stand part of the Bill.

Maulvi ABDUS SAMAD: Sir, I beg to move that in clause 53, in proposed section 90B (*1*), in line 2, after the words "any land" the words "or the lessee thereof" be inserted. The clause says that the district board may, by written notice, require the owner or occupier of any land within a reasonable time either to re-excavate or fill up, etc., etc. Now, Sir, it sometimes happens that the land or the fishery right in the water-course or tank or pool thereon is let out, and unless the lessee is mentioned in the section, difficulties may arise. So in order to make the position more clear and to avoid any doubt in future, I propose that the word "lessee" be added.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I oppose this amendment because it is quite unnecessary. If he is the occupier of the land, he will come within the purview of the section. If he is not, the district board need not trouble about him.

The motion was put and lost.

The following motion was called but not moved: —

Rai Sahib AKSHOY KUMAR SEN to move that in clause 53 for proposed sub-section (*2*) of section 90B the following be substituted, namely: —

"(*2*) If the district board executes the work of such re-excavation or filling up with suitable material, it may recover the cost of such work or part thereof from the owner or occupier referred to in sub-section (*1*), as if it were a public demand and shall be recoverable as such."

Maulvi ABDUS SAMAD: I beg to move that in clause 53, in proposed section 90B (*2*), in lines 1 and 2, after the words "such re-excavation" the words "or cleaning or draining" be inserted. This amendment is really in line with section 90B (*1*).

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I propose to accept the amendment.

The motion was put and agreed to.

Maulvi ABDUS SAMAD: I beg to move that in clause 53, in proposed section 90B (*2*), in line 6, after the words "profits or" the words "recover the cost of such work from the owner or occupier or both, by means of Certificate Procedure under the Bengal Public Demands Recovery Act, 1913, unless it is" be inesrted. In order to make realisation easy I think the provision of the Public Demands Recovery Act should be made applicable for the recovery of the cost which the district board will be entitled to get under the new section. Ben. Act III of 1913.

The Hon'ble Mr. BIJOY PROSAD SINGH ROY: I rise to oppose the amendment because it will cause unnecessary hardship to poor people. If he can afford to pay he will pay, and if he cannot, then to apply the Public Demands Recovery Act, will be to harass him. It is essential that the nuisance should be removed, and the district board should remain in possession until the nuisance is removed and the expenditure it has incurred on that account realised. I think this is also the case in the Calcutta Corporation.

The motion was put and lost.

Maulvi ABDUS SAMAD: Sir, I beg to move that in clause 53, after proposed section 90B (2), the following proviso be added, namely:—

"Provided that nothing contained in this and the foregoing section shall affect any right of easement or any prescriptive right which any person might have already acquired over the tank, water-course, pool, etc."

Sir, this clause, if accepted, will invest the district board with very wide power, namely, to re-excavate or fill up any channel or water-course. Now, Sir, it may be that many persons may have acquired rights of easement or prescriptive rights over these channels or water-courses, and I submit that such rights should not be interfered with. The clause, as it stands, does not make and mention whatsoever as to what will happen to those persons who have already acquired such rights. Suppose there is a *bil* from which cultivators take water, but if all on a sudden that *bil* is filled up, the cultivators will suffer great hardship. So it is necessary that their rights should not be curtailed or interfered with.

Khan Bahadur Maulvi AZIZUL HAQUE: I am afraid my friend has misunderstood the whole position. He is mistaken if he thinks that any right of easement or prescriptive right will be taken away by the district board remaining in possession in order to be reimbursed of the expenditure incurred by them. That does not mean that every right is extinguished. If that had been so I would have been prepared to support my friend. That is, however, the lawyer's business, and in case it was held that the mere fact of getting possession of the land would extinguish all rights, some such provision would be necessary; otherwise not.

Mr. H. P. V. TOWNEND: I am afraid Government have to oppose this amendment. We really do not feel very much sympathy for people who desire to perpetuate conditions which are a curse to the people around them. This amendment, if accepted, would prevent

the officers of district boards from taking action in the case of water likely to spread dangerous diseases, which is dealt with in proposed section 90A.

As regards draining off water and filling up or re-excavating water-courses, private tanks or pools, the neglect of these is one of the causes for the spread of malaria which is the great scourge of Bengal, as everybody knows; it is the existence of easements, which prevent water-courses from being kept clear, that leads to the spread of malaria in the districts to a great extent. I think it is misplaced kindness towards men, who want their rights of easement and other prescriptive rights to be safeguarded, to support their request at the risk that the health of the people should be allowed to suffer. If the House adopt this amendment, the other provisions which it is proposed to insert under these two sections will, I am afraid, become useless. I think everybody in this House is aware of how the fishery rights in the salt lakes have given rise to conditions which are a menace to Calcutta. I do not say that these conditions could be dealt with under the proposed sections: but they illustrate my point. Powers should be given to district boards to deal with similar cases, which in a similar way are causing incalculable damage to rural areas. I submit that easements and prescriptive rights should not be allowed to stand in the way of public health.

Babu KHETTER MOHAN RAY: I think, apprehensions of my friend, Maulvi Abdus Samad, are groundless. When any particular land is acquired by the Government, under the Land Acquisition Act, all rights therein including the prescriptive and easement rights are extinguished and the land so acquired is vested in the Government or in the local bodies for which it is acquired by the Government. But in this case, when the costs are incurred by the district board the district board can take possession of the tanks, etc., and retain their possession till the costs are realised out of the profit or till the costs are paid by the owner. The question of acquisition does not at all arise in this case. There will be no extinguishment of rights which will remain intact as before, consequently this amendment is quite superfluous and misleading and ought to be rejected.

Maulvi SYED MAJID BAKSH: I think, Sir, all this confusion is due to the interpretation of the right of easement as put up by the Select Committee. The right of easement is a right independent of the owner of a tank, water-course, pool, etc., if I understand the language aright. The thing is that, Sir, by acquiring the right of a person in the land the right of easement is not interfered with: you cannot have more right than the person whose land or tenement you occupy. If the district board occupies the tenement of a particular

person, the district board will only assume the right of that person. Any other right of another man cannot be affected by the district board; so, Sir, I think the whole misunderstanding has arisen out of this interpretation of the right of easement.

The motion of Maulvi Abdus Samad was then put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 53 after proposed section 90B (*2*) the following be added, namely:—

"(*3*) If the work is not carried out by the district board itself under sub-section (*1a*) or if it is brought to the notice of the District Magistrate by any person that the district board has not taken any action against the owner or occupier of any land within which exist any well, water-course, private tank or pool therein which may appear to be injurious to health or offensive to the neighbourhood within a reasonable time the District Magistrate may require such district board by a written notice to take action within a reasonable time to be specified therein.

(*4*) The District Magistrate may, on representation by any person or of his own motion, require any district board by written notice either to re-excavate or fill up with suitable material or to cleanse any well, water-course or tank or pool belonging to the district board to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood.

(*5*) If the district board do not take any action as required of them by the District Magistrate within a reasonable time, the Magistrate may, if he deems necessary, prosecute such district board and may impose fines until such district board fulfils the requirements mentioned in the notice of the District Magistrate."

Sir, in support of this amendment I beg to say that the chairman of the district board should not do certain things in which, although they themselves may be interested, the inhabitants of that district board might take objection. For example, there may be tanks, there may be injurious pools and there may be other injurious things possessed by district boards for which the people living in that locality might suffer badly, as polluted tanks, pools or other water-courses are generally sources of various diseases, which may spread amongst the people. In the Bill it is provided that if a private person possesses a dangerous tank or pool he is guilty, and such person shall be compelled to cleanse such tank or pool—that is well and good. But at the same time, what I desire is that the district board authorities should also be made liable for any negligence on their part to keep tanks, pools or water-courses in their possession, in proper cleansing condition; and my amendment provides that if the authorities of the district board do not take action to remove the dangerous condition of any tanks, pools, etc., under them, the people should have a right, and they should certainly have some means by which they will be able,

to get their grievances redressed. The chairman of a district board might possess an insanitary pool or an insanitary tank which will be very injurious to the health of the people living there, and if he does not care to cleanse it or fill it up or remove the nuisance by some other means, then I think there ought to be some provision by which the said chairman of the district board could be compelled to remove the grievances of the inhabitants. Sir, when an ordinary poor man who possesses an insanitary pool or tank is liable for prosecution, there is all the more reason why a local body, which should look to the sanitation, health and other amenities of public welfare, should not be so liable in similar cases; and the District Magistrate ought to be given power to deal with such cases. It is apprehended by some of my friends here that if the District Magistrate is armed with such power it may be misused. But I do not know who else in the district could be invested with such power and who else could exercise it. I hope at the same time that in the future constitution the District Magistrate will not be of the same kind as we have got them now.

If the people suffer under some sort of inconvenience or difficulties there must be some one to whom they can look for their remedy. Sir, there is a provision in the Bill that employees of district boards drawing a pay of Rs. 50 per month if dismissed, will have a right of appeal to the Divisional Commissioner and officers drawing above Rs. 50 will have a right of appeal to the Local Government. In the same way, if the district board do not feel inclined to remedy the evil for which they are themselves responsible, there must be somebody to whom the people could look for compelling the district board to remedy the evil. It may be argued, Sir, that this power is already provided in the Bill under which the Local Government could deal with such cases; but I have gone through the Bill and I have found that this provision is too insufficient and also it is so wide that the District Magistrate or the Local Government cannot take any action against such delinquent authorities. Therefore, Sir, by this amendment I want to give the power to the District Magistrate by which he can take immediate action against an offending district board. I have often found cases where tanks and pools possessed by the district board are not kept in proper cleansing condition and they do not care to take any interest in the welfare of the people. I think that because there is no stringent measure to be taken against them for such delinquencies, they go on merrily with their own work without paying any heed to the well-being of the people at large. Sir, in this House I think what is sauce for the gander should be sauce for the goose also. If poor people can be prosecuted for keeping insanitary tanks and pools, why should not the district board authorities be found guilty of the same offence for possessing such tanks and pools and equally dealt with.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Might I say that Government cannot extend their support to this amendment. I do not think, Sir, it is necessary for me to go into the merits of the question, because it stands self-condemned. Dr. Ghose said that he hoped that in the new constitution the District Magistrate would be a different being. God help the country, Sir, if in the new constitution the District Magistrates are invested with the power of prosecuting a statutory body like the district board, or to impose fines without prosecution. So here Dr. Ghose appears not in the role of a friend of the poor, or in the role of a democrat, but of an autocrat. I do not think such a provision should find a place in the Statute Book. So I oppose the motion, Sir.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 53, as amended, do stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Wednesday, the 30th November, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 30th November, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 94 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Re-valuation of road cess in Khulna.

*40. **Babu SUK LAL NAG:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that there has been a very general and acute discontent amongst the people of Khulna after the last re-valuation of the road cess in the district?

(*b*) What was the total road cess demand before the last re-valuation and what has been the increase after it?

(*c*) What are the reasons for the increase?

(*d*) What is the annual valuation of an acre of land in a *raiyat's khas* possession as adopted in the recent re-valuation of the road cess in the Khulna district?

(*e*) Have any instructions been issued by the Hon'ble Board of Revenue or any other revenue authority with respect to (*d*) above? If so, under what authority?

(*f*) What is the highest amount of *raiyat's* rent per acre of land adopted in settling revenue during the decade ending with March, 1931?

(*g*) Did a deputation wait upon His Excellency the Governor of Bengal during his last visit to Khulna in August, 1932? If so, with what purpose and prayers?

(*h*) What action, if any, has been taken on the said prayers?

(*i*) Do Government propose taking any action in the matter?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) No.

(*b*) Total demand before re-valuation was Rs. 2,78,936. The demand after re-valuation is Rs. 6,39,124.

(*c*) (*i*) The valuation was based on the record-of-rights and was more complete, whereas the previous valuation had been made without any knowledge of the real assets on the basis of incomplete and incorrect returns submitted by the landlords.

(*ii*) Many tenants previously assessed as *raiyats* at 2 pice per rupee on their rents have been now assessed as tenure-holders.

(*iii*) Increase in rent due to settlement operations led to a proportionate increase in cess.

(*iv*) Reclamation of waste lands.

(*v*) Assessment of rent-free lands which had escaped notice before.

(*d*) Unless a *raiyat* was assessed as a cess tenure-holder the valuation of his *khas* land was the rent he paid. If he was treated as a cess tenure-holder it was the average rent paid by his under-*raiyats*.

(*e*) No special instructions were issued by any revenue authority.

(*f*) The highest average rates of rent of occupancy *raiyats* are paid in thana Shyamnagar, *viz.*, Rs. 6-11-1 and in Sarankhola Rs. 6-3-9 per acre.

(*g*) Yes. The deputation asked (*1*) that *zamindars* be relieved of the liability to collect their tenants' cess, (*2*) that the cess enhanced as the result of the recent re-valuation be reconsidered, and (*3*) that the rates of revenue recently fixed of the temporarily-settled estates be reconsidered.

(*h*) and (*i*) As regards (*1*) the member is referred to the speech of Hon'ble Member in charge of the Revenue Department in the Legislative Council on 21st November, 1932. As regards (*2*) and (*3*)—These matters are under the consideration of Government.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member in charge of the Revenue Department be pleased to state what is the position now, so far as the revision of the Cess Act is concerned?

The Hon'ble Sir PROVASH CHUNDER MITTER: The Khan Bahadur is a member of the committee, and it is well known to him that we have made considerable progress, and, very possibly, he knows the position.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether there is any likelihood of a revised cess being brought into force shortly?

The Hon'ble Sir PROVASH CHUNDER MITTER: Without committing myself, I might say that there is more than a probability of this being done.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state what is meant by "more than a probability"?

(No reply.)

Babu AMULYADHAN RAY: With reference to answer (*c*) (*i*), will the Hon'ble Member be pleased to state whether he is aware that the pecuniary condition of the tenants is forcing them to the path of ruin?

(No reply.)

Maulvi SYED MAJID BAKSH: Will the Hon'ble Member be pleased to state whether he is aware that valuations were made according to a wrong interpretation of section 24(?)?

The Hon'ble Sir PROVASH CHUNDER MITTER: No.

Khan Bahadur MUHAMMAD ABDUL MOMIN: With reference to answer (*c*)(*i*), will the Hon'ble Member be pleased to state whether the increase might not really be due to the over-assessment of *khas mahal* lands?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, to some extent; but I must make it clear that it is one of the many reasons, and I believe that in most cases there was proper assessment of *khas mahal* lands.

Dr. NARESH CHANDRA SEN GUPTA: With reference to answer (*c*)(*i*), will the Hon'ble Member be pleased to state when was this record of rights finally published?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not exactly remember all the dates in so many districts of the province.

Ballyganj electric supply.

*41. **Mr. S. M. BOSE:** (*a*) Has the attention of the Hon'ble Member in charge of the Commerce Department been drawn to two deaths from electric shock in Ballyganj within the last two months?

(*b*) How many cases of death by electric current has taken place in Calcutta during the last three years?

(*c*) Will the Hon'ble Member be pleased to state—

(*i*) since what date alternating current is supplied to the Ballyganj area; and

(*ii*) the reason for changing from direct to alternating current in that area?

(*d*) Is it a fact that alternating current supply is—

(*i*) cheaper to the supply company; and

(*ii*) more dangerous to human lives in cases of accidental contact?

MEMBER in charge of COMMERCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Three deaths from electric shocks have been reported from Ballyganj during the last three months—two on 22nd September and one on 23rd September.

(*b*) 1929—4; 1930—Nil; 1931—2.

(*c*) (*i*) The approval of Government to the supply of electricity by the A. C. system in the Ballyganj area was granted on the 18th November, 1920, and the change to the new system took place in 1923.

(*ii*) The change was considered to be more economical to the producers, and Government were advised that the consumers would not suffer any loss.

(*d*) (*i*) Yes.

(*ii*) This is a question on which it is difficult to express an opinion, as the experts are not in agreement.

Mr. S. M. BOSE: With reference to answer (*b*), will the Hon'ble Member be pleased to state in what area did these four cases in 1929, and 2 in 1931 occur?

The Hon'ble Mr. J. A. WOODHEAD: In the Ballyganj area.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether he has any experience of the conditions prevailing in that area?

(No reply.)

High school in Calcutta for Muslim girls.

*42. **Maulvi TAMIZUDDIN KHAN:** (*a*) With reference to the reply given to question No. 140 at the Council meeting held on the 25th August, 1932, will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Director of Public Instruction has by this time submitted the contemplated scheme for a high English school for the education of Muslim girls in Calcutta for the consideration of the Government?

(*b*) If so, when do the Government expect to come to a decision?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) The Director of Public Instruction has not been able to submit the scheme as he has not yet received the plans and estimates.

(*b*) Does not arise.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to state who is responsible for the delay in the submission of the scheme?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The Director of Public Instruction has been unable to submit the scheme because some difficulty has arisen as regards the site that has been chosen by the committee. There is a likelihood that the site which has been chosen may fall within one of the Improvement Trust schemes, and, therefore, it is impossible to frame an estimate unless we know what plot will finally be selected. This is the main reason for the delay.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be phased to state whether the department has been asked to expedite the matter?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister be pleased to state the location of the site selected for the purpose?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: 21, Gorachand Road.

Khan Bahadur Maulvi MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state whether this site was selected after consultation with the leading Mussalmans of Calcutta?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The site was selected by the Special Committee in which the Mussalmans predominated.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state, in case the site is going to be changed, whether he contemplates consulting the Mussalmans interested in the matter?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Certainly.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether he has made any arrangement to open the only Government Girls' School in Calcutta to Muslim girls as a temporary measure until the new girls' school is opened?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Government have made a special grant to a girls' school, so that Muslim girls desirous of reading in that high school might get admission there. This grant has been made to enable the school to employ a much better class of teachers.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether Government are prepared to open the only Government Girls' School in Calcutta to Muslim girls?

Mr. PRESIDENT: How can that question arise in this connection?

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, my point is whether, pending the construction of the Muslim Girls' School, the only Government Girls' School in Calcutta could be opened for Muslim girls?

Mr. PRESIDENT: I am afraid that question does not arise.

School and college fees.

*43. **Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that wide-spread economic crisis is prevailing in the country for the last three years;

(*ii*) that prices of agricultural products have gone down to less than half the previous normal prices;

(*iii*) that pay of the teaching staff in Government schools and colleges has been reduced to a certain percentage; and

(*iv*) that students' school and college fees have not been reduced up till now?

(*b*) Is the Hon'ble Minister aware that many students belonging to the agricultural class have been compelled to abandon their studies?

(*c*) Are the Government considering the desirability of reducing the students' fees henceforth, year by year, as long as the economic crisis exists in the country?

(*d*) If the answer to (*c*) is in the negative, what are the reasons?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) Yes.

(*ii*) They have gone down considerably.

(*iii*) Yes, they have been reduced temporarily by 10 per cent.

(*iv*) Fees in Government schools and colleges have not been reduced.

(*b*) Government have no specific information to this effect; on the other hand there were more boys in schools in March, 1932, than in the preceding year. I am in a position to furnish the figures. They are as follows:—

	On 31st March, 1931.	On 31st March 1932.
Roll No. in secondary schools (boys)	416,221	422,008
Roll No. in primary schools (boys)	1,636,272	1,682,275

(*c*) No.

(*d*) Because they do not consider the fees excessive even in present economic conditions. In fact the Retrenchment Committee have actually recommended an increase of the college fees.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the recommendation of the Retrenchment Committee was not with reference to Government colleges, but with reference to private colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: As far as I remember, it applies to all colleges.

Rai Bahadur KESHAB CHANDRA BANERJI: With reference to answer (*b*), will the Hon'ble Minister be pleased to state whether or not there has been a fall in the number of college students this year?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether he is aware of the fact that there has been a considerable fall in the number of students of the Muslim Hall of the University of Dacca?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I think that is correct as far as the Muslim Hall is concerned, but so far as the other Hall is concerned, there has not been a very great fall.

3-15 p.m.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister be pleased to state whether any inquiries have been made by him to find out the cause of this fall in the number of students in Dacca?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice. I do not remember.

Dr. NARESH CHANDRA SEN GUPTA: With regard to (*d*), will the Hon'ble Minister be pleased to state whether it is not a fact that the members of the Retrenchment Committee are prosperous gentlemen?

(No reply; laughter.)

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state if it is not a fact that there has been a decrease in agricultural areas and increase in other areas?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Primary schools are mostly situated in agricultural areas.

Maulvi ABDUL HAKIM: Will the Hon'ble Minister be pleased to state whether the average price of rice in March was Rs. 8 or so and that in June was Rs. 9 per maund?

(No reply.)

Electric supply in Dacca city.

***44. Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Is the Hon'ble Member in charge of the Commerce Department aware of the public feeling that exists in the city of Dacca over the rules for the supply of electrical energy?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of taking any action for securing the reduction of the rate charged for the consumption of electric current in private houses in that city?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) No representations have been received regarding public feeling in the city of Dacca.

(*b*) Does not arise.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether inquiries have been made of Messrs. Octavius Steel & Co., managing agents of the Dacca Electric Supply Company, regarding existence of public feeling in Dacca?

The Hon'ble Mr. J. A. WOODHEAD: No, not as regards public feeling.

Rai Bahadur SATYENDRA KUMAR DAS: With regard to (*b*), will the Hon'ble Member be pleased to state whether he is aware of the existence of different rates, one in the Dacca University area and another in the Dacca city proper, although the source of supply is the same?

The Hon'ble Mr. J. A. WOODHEAD: I want notice; I do not know.

Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Member be pleased to state whether or not the managing agents of the Dacca Electric Supply Company have received any representation from the consumers of the electric energy in Dacca?

The Hon'ble Mr. J. A. WOODHEAD: They have received representation from the cinemas.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Bengal Public Security Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to present the report of the Select Committee on the Public Security Bill.

[The discussion on the Bengal Local Self-Government (Amendment) Bill, 1932, was then resumed.]

The Bengal Local Self-Government (Amendment) Bill, 1933.

Clause 54.

Mr. PRESIDENT: The question before the House is that clause 54 do stand part of the Bill.

Babu SATYA KINKAR SAHANA: With your permission may I move my amendment in an altered form?

Mr. PRESIDENT: Yes.

Babu SATYA KINKAR SAHANA: I beg to move that in clause 54, in proposed section 91(*1*)(*a*), in line 1, for the words "not less than five and not more than ten" the word "six" be substituted.

My object in moving this is to prevent the Public Health Committees which in future in Bengal will be very useful institutions getting unwieldy. If the committee consist of 16 or 17 members, it will be a bit unwieldy. Sometimes a meeting will not be held for want of a quorum and even when the meetings will be held, there will be such a scrambling for assertion of individual opinion that decision will seldom be arrived at in a single sitting. Therefore, I think that the number of those committees should be confined to 9 or 10—six members from the district board, the civil surgeon and three by co-option. I hope that considering the usefulness of the committees and the reasonableness of my amendment, the Hon'ble Minister will be pleased to accept it.

Rai Bahadur KESHAB CHANDRA BANERJI: I am afraid I cannot see eye to eye with the hon'ble mover. He has restricted the number of the committee to six members—three from the union committee and three from the general public who are not members of the district board. These members are to be co-opted by the committee. He has not said anything about the members of the union boards as most of the districts are now covered by union boards.

Babu SATYA KINKAR SAHANA: You are not speaking on item 126 which is under discussion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Government have no objection in accepting the amendment because they consider six to be a reasonable number for a committee like this.

The motion was put and agreed to.

Maulvi HASSAN ALI: I beg to move that in clause 54 the word "and" at the end of proposed section 91(*1*)(*b*) be omitted, and after the said proposed section the following be inserted, namely:—

"(*bb*) The district health officer of the district, who shall be an *ex-officio* member; and"

In moving this amendment, my reason is very simple. The district health officer is a responsible officer of the district board and he is naturally expected to be conversant with the condition of the areas of the district board. So I think he can be taken into the Public Health Committee. I find no reason why he should be excluded from the health committee of the district board.

Kazi EMDADUL HOQUE: I beg to give my whole-hearted support to the amendment which has just been moved by my friend, Maulvi Hassan Ali. It is quite unthinkable why the district engineer, who has very little to do with the village public health, shall be in the committee, while the health officer, whose primary duty is to look after the improvement of village public health, will be denied access there. To my mind the health officer's services are required by the committee because he can give first-hand information regarding the village public health and the members of the committee will find enough materials to come to a precise decision. Besides, there is a provision for co-option of outsiders, but I do not know why Government studiously excluded these officers whose services would be very very valuable if they are allowed access to the committee.

Babu JITENDRALAL BANNERJEE: I whole-heartedly support the amendment. The health committee is a committee by the district board and the health officer is their own officer. A health committee without the health officer is most inconceivable. There is no reason why the civil surgeon should be there and, on the other hand, why the district health officer should not be on the committee. I hope the Hon'ble Minister will accept the amendment.

Maulvi SYED MAJID BAKSH: I oppose the amendment, because the district health officer is an officer of the district board and as an officer he is the servant and employee of the district board. Just as in the works committee or finance committee we do not take the district engineer as a member, we also should not take the health officer, but whenever we desire to consult engineers, we call our district engineer to come before the committee; similarly when a question of public health will arise, the district health officer will be called by the committee and consulted. Every civil surgeon may not be a member of the district board, and no provision has been made to meet this.

Mr. P. BANERJI: Maulvi Majid Baksh has just pointed out that a civil surgeon is there and Mr. J. L. Bannerjee has just put forward most forcibly the argument in support of the amendment. My point is that whenever in this Council we refer a Bill to a Select Committee, either we include as members the Minister or the Member in charge of the Bill along with the Secretary for giving necessary assistance. In this case I do not understand why the district health officer, who is responsible for every public health work in the district, should be excluded from the health committee of the district. I again request the Hon'ble Minister to kindly accept the amendment.

Dr. NARESH CHANDRA SEN GUPTA: We have heard a great deal about the necessity of expert opinion in another connection in this House. I cannot see why expert opinion should be at a discount in the formation of the district health committee. If any man is supposed to know all about the health of the district more than anybody else, he is the health officer. His presence in the committee will be of great service. Maulvi Majid Baksh observed that he will be called in whenever necessary, but he will have to be called in every time the health committee meets. Then what is the necessity of keeping him outside? He is also an expert who will be able to advise. The absence of the health officer will mean that the district public health committee may arrive at a decision without the knowledge of the relevant facts which the health officer might have informed them about simply because nobody thought of sending for the health officer before they decided. The health officer is to be the executive hand of the public health committee to carry out everything decided upon by the health committee. Is it not proper that the person who has got first-hand acquaintance of public health in the district, should get instructions first-hand instead of having them issued by the chairman. I think there is absolutely no reason why, while there should be ten members upon that committee, 11 should be a frightful number. I do not think any reason has been advanced yet why the public health officer should not be in the committee.

Rai Bahadur KESHAB CHANDRA BANERJI: I would have supported the amendment if the object of the amendment was to require the presence of the health officer at the meetings of the Public Health Committee. Mr. J. L. Bannerjee has said that the civil surgeon is an outsider and his presence is not necessary at the Public Health Committee meetings. I think Mr. Bannerjee is wrong there. The civil surgeon of the district is in most places an *ex-officio* member of the district board. (Cries of no, no.) I say this from my personal knowledge. The civil surgeon is nominated by Government as an expert capable of advising the board on all matters of medical importance and

as such his opinion is of great value. With regard to the district health officer, there is no objection to his inclusion in the committee, provided that he is not given the right to vote, but the amendment, as it stands, is not clear on that point. If it is accepted by the House, he will not only be a member of the committee, but will have the right to vote at such meetings, which is objectionable. Being an officer of the district board, I do not think that power should be given to him.

3-30 p.m.

Reference has been made by Dr. Naresh Chandra Sen Gupta to experts. I submit that clause (*c*) is quite clear on the point which says that the committee will have power to co-opt additional members whenever they find it necessary to do so. Of course such co-option may be necessary for certain reasons. If the civil surgeon is not available, some other expert should be co-opted to consider matters relating to public health and sanitation, and I do not see any reason why the health officer should not be consulted. He is a permanent employee of the board and can be consulted on any question concerning his department. Whenever any question relating to sanitation or public health comes up for consideration, it is always the practice to consult the health officer, as the district engineer is consulted on engineering matters. I am not aware of any instance in which the district health officer is not consulted by the chairman or the members of the board at a meeting in matters affecting the public health and sanitation of a district. On these grounds, I oppose the amendment.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I think there is misunderstanding as to the actual position of the district health officer and the functions of the Public Health Committee. Those who have knowledge of the working of district boards know that there are questions during the consideration of which it is not necessary or desirable that the health officer should be present. Take the case of the diary of the health officer himself. His diary will be subject to the scrutiny of the Public Health Committee and questions of discipline and other personal matters might arise and opinions may be expressed by the members. These are matters for the consideration of which the district health officer should not be a member of the committee. I do not understand what Mr. Jitendralal Bannerjee means by saying that he should be a member of the board. That will mean that he will be present at the meetings all through. From all points of view and in view of what the Rai Bahadur has said, namely, that the engineer and health officer are always present in meetings of sub-committees whenever engineering and public health matters are discussed, I do not think that the health officer should be an *ex-officio* member. Their

presence in committee meetings can always be arranged for whenever necessary. But where questions of discipline or diary or such other matters are concerned, it is desirable that the health officer should not be present at the meeting.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the last speaker has mostly anticipated the arguments which I wanted to advance in regard to this amendment. It is for the Public Health Committee to give direction to the health officer and for the health officer and his department to carry out those directions. It may be necessary for the Public Health Committee to criticise and to sit on judgment over the action of the health officer and of the officers subordinate to him. I would cite the instance of the Calcutta Corporation. There are several committees, but in none of them the permanent officers of the Corporation sit as members, not even the Chief Executive Officer; but they can be summoned at the meetings of the committees to place the departmental views before them, but they are never given seats as members on any of the committees. On that analogy and on the experience of the working of such committees in different public bodies, this clause has been drafted. I am just told by my friend Mr. Townend that in the Mines Board of Health in Asansol, which is one of the most efficient public health committees, the Chief Medical Officer is not a member of the board, but still they are carrying on the work quite efficiently. The health officer's technical and expert advice is always available. Whenever his advice is necessary, his services are at the disposal of the committee and there is absolutely no reason why he should be made a permanent member of the committee. On these grounds, I would oppose the motion.

The motion of Maulvi Hassan Ali was then put and lost.

The following motions were called but not moved:—

Babu SATYA KINKAR SAHANA to move that in clause 54 for proposed section 91 (*1*) (*c*), the following be substituted, namely:—

"(*c*) three members from the union committees and three from the general public, who are not members of the district board, shall be co-opted by the committee".

Dr. AMULYA RATAN GHOSE to move that in clause 54 to proposed section 91 (*1*) (*c*), the following be added, namely:—

"at least one qualified medical practitioner within the district board, if available, shall be one amongst such co-opted additional members".

Rai Bahadur SATISH CHANDRA MUKHERJI to move that in clause 54 after proposed section 91 (*3*) the following be inserted, namely:—

"(*3a*) The district health officer and sanitary inspector shall be entitled in the discharge of their duties to enter any house or place within their jurisdiction, but if any women who do not appear before public live in such place or house, the said officer shall give them sufficient time and opportunity to remove themselves. Also such health officer or sanitary inspector shall not enter any such place or house between sunset and sunrise".

Mr. PRESIDENT: The question is that clause 54, as amended, stand part of the Bill.

The motion was put and agreed to.

Clauses 55, 56 and 57.

Mr. PRESIDENT: The question before the House is that clauses 55, 56 and 57 do stand part of the Bill.

Maulvi ABDUS SAMAD: Sir, I beg to move that in clause 55, in proposed section 91A, in line 4, after the word "possible" the words "with due regard to the financial resources of the board" be inserted.

Sir, under this new section the district board shall have to carry out any recommendation of the health committee and spend money upon it and take such measures as may be necessary in that behalf. My point is that such measures should be taken, as may be possible, with due regard to the financial resources of the board, that is, the board should take such measures as they may be in a position to carry out. For this reason I want to add these words.

Rai Bahadur KESHAB CHANDRA BANERJI: Sir, this is a very useful amendment and from my personal experience I can say that some members are so very anxious to carry out works of sanitation in the rural areas just before local board and district board elections, that on occasions it becomes necessary for the executive to prevent such works being done in a particular locality for financial reasons. If the Public Health Committee think that certain sanitary measures should be carried out in a particular area or areas, the amendment proposed by Maulvi Abdus Samad will be very helpful. If his proposal is accepted then it will not be possible for interested members to disregard altogether the financial aspect of the question. If his amendment is not accepted, nothing will prevent members of a district board from sanctioning schemes, although the financial resources of the board may

not permit of such works being undertaken. The suggested provision, if carried, will be a salutary safeguard against irresponsible proposals —proposals which may be made in the interest of a particular person or group of persons and not in the public interest.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I do not see the object of this amendment. If the financial resources of a board do not allow a particular work to be done, it will not be possible for the work to be taken up. "Anything possible" means any work which can be done with due regard to the financial resources of the board. Besides, after the amendment of the Hon'ble Minister, which has just been carried, I think matters will be made easier. That being so, I do not see any purpose in inserting these additional words.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, we are prepared to accept this amendment.

The motion of Maulvi Abdus Samad was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in clause 55, in line 5, of proposed section 91A, for the words "in accordance with" the words "after considering" be substituted.

If the words "in accordance with" be retained, then in every case the opinion of the health officer would be necessary and nothing could be done without consulting him.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 55, as amended, and clauses 56 and 57, stand part of the Bill.

The motion was put and agreed to.

Clause 58.

Mr. PRESIDENT: The question before the House is that clause 58 do stand part of the Bill.

Mr. SARAT KUMAR ROY: Sir, with your permission I should like to make an amendment to the amendment standing in my name.

Mr. PRESIDENT: Yes, you can do that.

Mr. SARAT KUMAR ROY: Sir, I beg to move that in clause 58 of the Bill, sections 100A, 100B and 100C be omitted.

It is a well-known principle of the law of property that everybody should be allowed to enjoy freely and unrestrictedly his rights, privileges and interests and these should not be interfered with by legislative enactments unless their exercise affects the rights, privileges and interests of other persons.

We know, in rural Bengal, right to establish a *hat*, or a *mela*, etc., on one's own land is one of the most elementary rights to immovable property and people have been allowed to enjoy such right or privilege from time immemorial. You cannot, by a legislation like this, curtail them now. That will also have the effect of causing material loss and injury to them, which is certainly undesirable.

Sir, let us consider what may be the effect of this provision upon the existing *hats*, *melas*, etc.

A *sairat mahal* is unstable in its nature and any imposition of rigorous measures may lead to the extinction of many of them. The owners and lessees of these *hats*, *melas*, etc., do not derive from them such income as to enable them to meet heavy expenses which may be required for the fulfilment of the terms and conditions that may be imposed by this provision.

I am afraid, Sir, the expenses involved for fulfilling all the terms and conditions which may be imposed by the rules, cannot but be heavy, not to speak of the expenses for taking out a license or for paying fines, if any, imposed upon the owners and lessees, for alleged breach of the rules on their part.

Then, Sir, I beg to submit there are other reasons besides; I am afraid, the great power going to be conferred by this provision upon the local executives of a district board may lead to their abuse and cause unnecessary harassment to many people and increase litigation. Thus "it will bring in its train, more misery than good which is expected of it." Sir, I quote from the minute of dissent of Mr. Saileswar Singh Roy.

Sir, if you look at the minutes of dissent recorded by several members of the Select Committee and specially those recorded by Mr. Saileswar Singh Roy and Khan Bahadur Muhammad Abdul Momin, you will find that those honourable and esteemable members have also endorsed the same views.

Mr. Saileswar Singh Roy has recorded: "I think that no such power should be given to the district board. Such powers would, I am afraid, be an encroachment upon the private rights of persons owning *hats*, etc. Besides that, these powers will be machinery for unnecessary interference with, and victimisation of, some persons who would perhaps hold a different political opinion or would belong to a different party.

This is sure to increase litigation and bring in its train, more misery than good which is expected of it. This will be resented by all present owners of such properties."

While Khan Bahadur Momin has recorded: "I object to the new section 100A (clause 58 of the Bill) requiring the owner of every *hat*, etc., to register their *hats* and obtain a license from the district boards. I consider this an unwarranted imposition and unfair infringement of private rights."

I, therefore, beg to move that in clause 58 of the Bill, sections 100A, 100B and 100C be omitted.

Mr. ANANDA MOHAN PODDAR: The proposed section 100A states that the owner of a fair or *mela* or a private *hat* or market shall have to take a license from the district board on certain conditions and the district board shall have power to prohibit prostitution within the fair or *mela* and also that fees shall be charged for such a license.

Sir, this is quite a novel thing in the history of our land. From time immemorial *melas* and *hats* have been held in different parts of the country in prosperous towns and remotest villages in the country-side and nobody ever asked the proprietors of the *melas* or *hats* and markets to take out a license from the district board. *Melas* and *hats* are almost everyday occurrences of our village life. They are very useful institutions—useful from educational, social, economic and some other points of view. The *melas* are mostly connected with religious festivities of the Hindus and Muhammadans of Bengal, and without them the religious functions remain incomplete. If you interfere with them, it will surely result not only in heavy loss to the proprietors, but will be a cause of great discontent among the people. This is, I think, a serious interference with the private rights of the proprietors.

Moreover, the term "*mela*" or "*hat*" has not been defined in the Bill. There are big *melas* continuing for one or two months and small *melas* which are held only for a few hours on festive occasions. Most of the religious functions of the Hindus are connected with big or small *melas*—the *Rathajatra*, *Sankranti*, *Jhulan*, solar and lunar eclipses, etc., *Snanjatras* are mostly accompanied with *melas*. Even theatre and *jatra* performances in private houses attract many shops, and something like *melas* is held along with them. I do not know if district boards will be at liberty to call for licenses on these occasions too. Most of the village *melas* or fairs are petty affairs of purely local interest and it is certainly undesirable to prohibit them and quite impracticable for the proprietors to get a license for them.

As for the sanitary arrangements, the small fairs are hardly in need of them—they being purely local affairs continuing only for a few

hours. There is no danger of spreading deseases in them. Festive and religious gatherings are generally non-remunerative and the proprietors cannot be pressed for sanitary arrangements.

As for the big *melas* and *hats*, the local authorities have so long been looking after the sanitary arrangements. The district board health department usually makes sanitary arrangements and takes precautionary measures against spread of epidemics, such as cholera, etc. In outlying places it would be very difficult for the proprietors to make such arrangements. As regards conservancy, water-supply, road and drainage and medical aid, etc., these too can be best carried out by the District Health Department. It is their duty and for this they are paid by the public. It will be preposterous to shift the responsibility of the district board to the proprietors of the *melas*.

Sir, there is another aspect: the *zamindars* and other landlords who are generally the proprietors of these *melas* and *hats* in Bengal are required by this section to seek the favour of the district board authorities for the license. Sir, to our great surprise and misfortune, we find nowadays persistent attempts from different quarters to encroach upon the rights and liberties of the *zamindars*. Suggestions are put forward in every session of this Council to amend the Bengal Tenancy and other Acts of a similar nature with a view to curtail the rights of the *zamindars*. You cannot accuse one if he suspects that this particular section of the present Bill is also aimed at the same end. This is not a happy sign and we do not like to see the Government interfering with the rights of the *zamindars*. It is the usual custom with the proprietors of the *hats* and markets to make necessary sanitary arrangements in the *hats*, as far as it is practicable for them, and it is not at all desirable to thrust upon them additional burdens which are sure to cause hardship to them.

As regards the prohibition of prostitution in the *mela* or fair, there is obviously difference of opinion. They are sometimes considered as necessary evil so far as the *mela* is concerned. No big *mela* is likely to thrive without such an element and its stoppage may lead to a very large increase in offences against women, such as rape and kidnapping, etc. It is doubtful, if it would be possible to get rid of them altogether. They may be at least controlled and medically examined to stop the spread of venereal diseases, but it would be undesirable to prohibit them altogether.

With these words, I commend my motion to the acceptance of the House.

Rai Bahadur KESHAB CHANDRA BANERJI: On a point of order, Sir. May I know what would be the effect of this amendment

if it is carried? Mr. Sarat Kumar Roy asks for total deletion of clause 58, whereas there are some who object to licenses so far as *melas* and fairs are concerned, but not with regard to private persons' bazars.

Mr. PRESIDENT: What has Mr. Roy suggested?

Rai Bahadur KESHAB CHANDRA BANERJI: Total deletion of clause 58.

Mr. SARAT KUMAR ROY: I have suggested, Sir, retaining clause 100D, and excluding A, B and C.

Mr. PRESIDENT: As far as I understand, Mr. Sarat Kumar Roy proposes that the first two lines shall be inserted retaining only D and taking out A, B and C.

Mr. SARAT KUMAR ROY: Yes, Sir, that is so.

Mr. PRESIDENT: My difficulty is that you did not let me have a copy of your amended motion and so it is very difficult for me to realise what you want. Do you propose to omit all these sections excepting D?

Mr. SARAT KUMAR ROY: Yes, Sir.

Mr. PRESIDENT: All right. Then what are your difficulties, Rai Bahadur?

Rai Bahadur KESHAB CHANDRA BANERJI: I could not clearly follow the amendment, but now I do not think there is any difficulty.

Rai Bahadur Dr. HARIDHAN DUTT: I rise, as I did once before, to oppose an amendment on the lines suggested by Mr. Roy. If his amendment is accepted, what will be the result? *Melas* will be flourishing all the country side without any regulation, without any control by anybody. I have no objection to the *melas* flourishing; let them do so, but they must be under some authority or regulation. My friend Mr. Sarat Kumar Roy's amendment is in the selfish interest of the *zamindars;* but what about the people? Thousands and thousands of people flock together to a *mela.* (VOICE: Not so many.) But there are *melas* and *melas;* there surely are *melas* in which thousands of people flock together. What about these *melas* producing insanitary conditions? Will they affect the *zamindars* or the people? I am disposed to think that from the sanitary point of view the question is more important for the people than for the *zamindars. Zamindars*

are interested in getting revenue out of their land and I do not wish to stand in their way. Let them get their income from the land; but why should they be so unreasonable and so selfish as to ask for *melas* being held without control and without measures for the prevention of insanitary conditions? I have not seen many *melas*, but I have seen some to be in very disgraceful condition. Did the *zamindars* take steps to remove the insanitary condition of the *melas*? I do not think they did. In some *melas* which are uppermost in my mind at the present moment, the conditions were horrible. My friend who is an ideal *zamindar* and is anxious for the welfare of the people ought not to stand in the way of *melas* being properly regulated. In some *melas* where thousands of people congregate, there is not sufficient accommodation or provision for necessary conveniences. Well, Sir, if things are allowed to take their own course, and no attempt is made to regulate them, and if cholera or any other epidemic breaks out, what would be the consequence?

Mr. ANANDA MOHAN PODDAR: The district board can, if it chooses, regulate these things.

Rai Bahadur Dr. HARIDHAN DUTT: It is true that I have not a clear idea of the existing regulations, but I think the object which has prompted the member to move this amendment is to ensure that the *melas* should not be interfered with and the vested rights and interests of *zamindars* would be left alone. May I inquire, Sir, what is meant by that, if not selfish interest? I want the *zamindars* to be reasonable and the question of vested right need not stand in the way. When a *mela* is held, the district board must have control over the sanitary conditions there. If this amendment is accepted, then the clause inserted by the Select Committee making it lawful for a district board to require the owner or the lessee of a fair to obtain a license, will be done away with. If I am wrong, I hope to be corrected. The deletion of this clause would mean that the *melas* would practically be without any control. Sir, I believe it will be very unwise of this Council to accept the suggestion of Mr. Sarat Kumar Roy for the deletion of the whole clause.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I rise to oppose this amendment. The hon'ble mover wants the deletion of any clause which seeks to give district boards any sort of control over *melas*, and in this clause the hon'ble mover and his supporters have read any number of frightful demons lurking behind. Well, Sir, the usual cry has been raised that the fundamental rights of the *zamindars* are being interfered with, that the mischievous district boards will be making inroads into the sacred rights of the land-owners, and things of that

sort. I am afraid, Sir, I have not read the section which is sought to be deleted. It reads thus: "it shall be lawful for a district board to require the owner or the lessee of a fair or *mela* or a private *hat* or market, etc., to obtain a license on such terms and conditions and on the payment of such fees as the Local Government may prescribe." It is not intended that the sweet will or caprice of a district board would interfere with the private rights of *zamindars* out of any private grudge; so that apprehension at any rate is absolutely without any foundation.

Then it is suggested that the regulations of a *mela* for the purpose of sanitation or morality at least would be interfering with the private rights of landlords guaranteed, to them, I believe, by the Permanent Settlement. I do not want to go into the matter in great detail, but those who have read the regulations about the Permanent Settlement and connected regulations, know that by the Permanent Settlement and regulations, *zamindars* did not acquire the right of holding *melas*, markets or fairs, etc., and to levy tolls from them—two things which have come to them by a fluke, so to say. It is far from being a fundamental right to the *zamindars*. The right to levy tolls of this kind was expressly taken away from them by regulations passed before the Permanent Settlement. The basis on which the land revenue was fixed at the time of the Permanent Settlement was the income excluding the income from *sairat*, and it was laid down that Government may, if they so chose, introduce the levy of these *sairats* on their own account. The *zamindars* have not since then obtained any *sairats* from the Government. It is a thing which has come to them by a fluke, by the decision of the *sadar dewani adalat* in 1766. So all this tall talk about their fundamental rights being interfered with is absolutely——

Khan Bahadur MUHAMMAD ABDUL MOMIN: Absolute rot.

Dr. NARESH CHANDRA SEN GUPTA: I cannot use that word for it is absolutely unparliamentary, but I would say that it is absolutely unfounded. However, no private individual has, under the statutory law, or the Permanent Settlement regulations, or any law whatsoever, any right to realise tolls from *melas* or fairs within his land: that is my position.

4 p.m.

However, that is immaterial. No right is sought to be interfered with. If the *zamindars* have the right to gather a concourse of men on their land, they are under the obligation, along with that, not to injure them. It is incumbent on them to see that the nuisance committed in the land is restricted as far as possible. A concourse of men is a

nuisance upon the land in all conscience, and the *zamindars* have got to take steps to make it not a nuisance. It is a part of common law in England, and I suppose it is a part of the elementary law everywhere. If they hold a market, it is their duty to see that the market does not become a source of nuisance to the people. My hon'ble friend, Khan Bahadur Maulvi Azizul Haque, referred to some incidents the other day, and it is well known that epidemics of cholera, etc., often spread from these big *melas* all over the province. And why? Because adequate sanitary precautions are not taken. It is perfectly true that at the present moment some sanitary precautions are taken at the *melas* by the district boards, local boards and voluntary charitable associations, but that is no reason why the persons who are benefited by the *melas* should not be made to contribute towards the maintenance of sanitary arrangements there. It does not necessarily mean that the obligation imposed must necessarily be onerous; it may not be very onerous. It is left to Government to regulate the whole thing, and Government can be trusted to regulate the thing with due regard to the proprietary rights, so as not to make it a heavy burden on the owners of the land. I think, under the circumstances, it is preposterous to suggest that the mere attempt to regulate *melas* is an encroachment on anybody's rights. That sort of encroachment has been made over and over again in this country, *viz.*, every municipality has the right to regulate the sanitary arrangements of a market-place. Will the owner of the land complain that the municipality has no such right or say in the matter?

Well, Sir, my friend, Rai Keshab Chandra Banerji Bahadur, was himself the chairman of a municipality. No doubt, he imposed restrictions upon owners of markets within the municipal area. Was he disturbed by any qualms of conscience in doing so? Does he think that to regulate the health conditions of a market is iniquitous and an encroachment on public rights? I would say, Sir, that, in the year 1932, to talk in this strain against the sanitary restrictions in *melas* and *hats* is an anachronism and absurdity.

Maulvi SYED MAJID BAKSH: Sir, I beg to oppose the amendment. Though many reasons have already been advanced, yet I would put forward some more to justify my attitude. All that the amended section provides is, first, that there should be sanitation under the supervision of the district board, and, secondly, there should be some license fees which would be an additional source of income to the district board. I know, Sir, the reason why there has been so much opposition over the control of sanitary arrangements in *melas* and *hats*, but that is confined to those who will have to pay the license fees. I am reminded in this connection of the history of Poland which was inhabited by brave heroes, who in the past have fought many heroic

battles. But it is known to every student of history that all the Polish nobles were opposed to the payment of any money to the public exchequer by way of taxes, and, whenever any question of increasing the military strength of the country arose, they strenuously opposed it, because it involved new taxation. The result was that the military strength of the country dwindled and Poland was ultimately divided between three great powers of Europe.

So, it is the case with the license fee to which objections have been raised by my friends, the *zamindars*. Sir, I fail to see that unless and until a license is granted and is made compulsory, how can the district board control the owners of these *melas* and *hats*, who are very big people. Most of them are so big that they often snap their fingers at local authorities, not to speak of district boards. [Khan Bahadur MUHAMMAD ABDUL MOMIN: You yourself, I understand, is the owner of a *hat* (laughter).] But I am not supporting it in the fashion you are going to do. If provision is made to the effect that the district board should be vested with these rights only, they will take it as a pious resolution. District boards will send their sanitary officers and they will incur some expenditure; but wherefrom is the money to come? Certainly, it must be given by those who require the services of the district board officers. Sir, some previous speakers have already pointed out the necessity for sanitary arrangements at these *hats* and *melas*, and, in my opinion, they are absolutely essential, especially in the hot weather when diseases are likely to spread. (A VOICE: *Melas* are generally held in the month of *Falgun* which comes within the category of the winter season. Maulvi SYED MAJID BAKSH: The month of *Falgun* is really a part of the dry season and has nothing to do with winter.)

Sir, I have already submitted that unless some arrangement is made for the payment of these fees and unless the owners are made to pay, it will be very difficult for district boards to control these *melas*. My friends have suggested that diseases generally spread in the villages long after these *hats* and *melas* are over. I have been told that it will be an encroachment on the rights of the *zamindars*. It has been said that the levy of a tax or license fee is an encroachment upon private property, as if somebody is going to dispossess the owners.

But has there not been any encroachment on the Permanent Settlement? The Permanent Settlement stipulated that there would be no increase in revenue; yet, in spite of this guarantee, additional taxation is levied from the *zamindars* under the Cess Act. Is it not an encroachment? Similarly, if the right is given to district boards to levy license fees, there will be no encroachment whatsoever. Therefore, Sir, I beg to submit that this clause is very essential and very necessary and should be retained.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I am afraid that by inserting the words "*hats* and markets" in the clause along with "fairs and *melas*" there has been a confusion which has led to so much dispute in this matter. I am perfectly in agreement with Dr. Naresh Chandra Sen Gupta and other members who have spoken about the necessity of making sanitary arrangements in *hats* and *melas*, and for this reason, in the case of a big fair or *mela*, it will be necessary for the district board to grant a license; but when we come to the case of a private *hat* or market, I think the position is absolutely different. This clause provides for two functions of the board which I should like to explain. One is that for the purpose of proper sanitation, district boards should have power to frame rules and to enforce them, and have power to forbid the holding of *melas* without first making proper sanitary arrangements. The second is that nobody should be allowed to hold a *hat* or fair without first obtaining a license from the district board. In my opinion, Sir, the second power will merely cause harassment to the owners of small private *hats* in villages. It is not a fact, Sir, that all private *hats* belong to big *zamindars*. I think there are a considerable number of *hats* which have been established by tenants, and I can say, Sir, from my own personal experience that in the Burdwan division—in Birbhum and other districts—a *hat* is not a paying proposition at all. The *hat* is there, because, generations ago some ancestor of a family established it, and it is merely a question of prestige with that family to maintain it for the convenience of the people. In Eastern Bengal, there are some very big *hats*, but a very large number of them have been established by ordinary tenants, and they are not at all paying. Therefore it is no good saying that it is only the landlords who are the owners of *hats* and *melas* and they make money on them.

Sir, unlike *melas* or fairs, *hats* are really very necessary. In *hats*, the producers take their crops and vegetables for sale and when they return, they buy other necessaries of life with this money. *Hats* are not like *melas* which are in the nature of luxuries. Fairs or *melas* are established for profit by some enterprising landlords for the enjoyment and pleasure of the neighbouring people. Therefore, Sir, district boards are justified in putting restrictions in the holding of big fairs or *melas* and in issuing licenses for them, but even in such cases you may put the board in a false position. If you include small *hats* and markets in the same category with big fairs, this clause will have the effect of dragging the district boards into feuds and litigation. In some cases, rival parties establish different *hats* and *melas*, and district boards will be unintentionally, without any fault of their own, drawn into the disputes between the rival parties, if this clause is incorporated in the Bill.

Sir, I am of opinion that this clause may be necessary so far as big fairs and *melas* are concerned, but in the case of *hats* and private markets, I am strongly opposed to any interference on the part of district boards. So far as public sanitation is concerned, the district boards may only be empowered to see that proper sanitary arrangement is made by the owners of small *hats* and markets, but they must not be given any power in any other way.

Therefore, Sir, I suggest to the Hon'ble Minister that this section may be split into two parts. First, in regard to fairs and *melas*, district boards should be empowered to issue licenses for them and forbid the establishment of fairs if their owners do not fully comply with the orders of the district boards; but so far as *hats* and private markets are concerned, district boards should be empowered to supervise and control their sanitation and nothing more.

4-15 p.m.

The second provision should be for *hats* and private markets alone and the only power the district board should have would be to enforce sanitary measures. If he will agree to this splitting up, I will hand over a draft to Mr. Townend for his consideration, or the amendment proposed by Rai Bahadur Keshab Chandra Banerji will probably meet the case.

(At 4-20 p.m. the Council was adjourned for prayer and it re-assembled at 4-35 p.m.)

Maulvi ABUL KASEM: I support with all the emphasis that I can command the amendment of my friend Mr. Sarat Kumar Roy and I oppose the clause of the Bill lock, stock and barrel. Arguments have been put forward both in favour of the clause as it stands and in favour of the amendment. I want to draw attention to one particular phase of the question. It has been said that for every *mela* and every *hât* and market a license should be obtained from the district board. I am afraid that a great injustice will be done by this. In a district board some people may have an influence with the members of it and if such people have rival *melas* or *hâts* it would be quite possible for them to influence the district board to refuse the license to one of them and therefore create a monopoly of the other. This has been done, I say from experience, in municipalities. In municipalities they have got to issue licenses for certain business and the Municipal Act lays down that license shall not be refused but for certain causes. But in spite of the peremptory language of the Municipal Act licenses have been persistently refused in many cases. In one case I know that a municipality was suspended for not granting a license and then the license had

to be granted. Only recently another municipality tried to do this and create a monopoly by not issuing licenses but this has been averted by the action of the Local Government. I am afraid abuse of this power will greatly interfere with the holding of *melas*.

Then as regards the merits of the case, my friend, Mr. Naresh Chandra Sen Gupta, has said that it is necessary in the interest of sanitation and morality of the people that there should be some control. I have never known that morality can be enforced by a piece of legislation. If that had been so human nature would have been quite different from what it is. Europe, America, Persia, Turkey, Mesopotamia and Afghanistan would have introduced legislation to enforce morality of the population, but they have not done it. England is the only country that we hear of where there is some control over immorality and England has made itself the laughing stock of the whole world because it is absolutely impracticable to reduce immorality by legislation. I may say that the city of London is more immoral than the city of Paris where immorality is also rampant.

4-45 p.m.

Then, Sir, about sanitation. It is all very good to talk of sanitation, but how are you going to introduce sanitary arrangements in rural *hâts* and *melas*. Those who have knowledge of rural areas of Bengal, at any rate of West Bengal, know that these *hâts* are held twice a week in a plot of land by the side of a tank, where poor villagers come with their vegetables and sometimes with a few fruits of their trees to sell. What sanitary arrangements can you make in those places? These sanitary arrangements whether they benefit the people or not will, at any rate, entail a good deal of expenditure. I cannot for want of knowledge say anything about law—I do not know what is the common law of England and all such things like my friend Dr. Naresh Chandra Sen Gupta. *Hâts* and *melas* as held in this country are innocent institutions. Now, what happens in these *melas*? There are a few pieces of amusements, a large amount of *toms toms* and a few shops of sweetmeats—things which are bought very cheap by the poorer section of the people, and to introduce this legislation will be an unnecessary interference. It has been said that these *hâts* and *melas* affect the interest of the *zamindars*. I submit that it is not the *zamindars* alone who own *hâts*, and in many cases it is not the *zamindars* who are the owners and proprietors of the places where these *melas* are held. In my part of the country these *melas* are associated with religious occasions and are therefore held near about a *darga* or such other place and they are held on the land of the *mutwali* or the *shebait* who get the benefits out of them. Where does the poor *zamindar* come in? Of course there are big *melas* like those held in Sonepur and Dinajpur. These may be excepted. The section as it stands affects every *mela*. Sir, in my part of the

country, on the first day of the Bengali month *Magh*, *melas* are held in every district of West Bengal. There are hundreds of *melas* where there are small gatherings of people and tinsels and such like things are sold there and the poor humble people who have no opportunity of indulging in more costly pleasures congregate there. We are told by Dr. Naresh Chandra Sen Gupta and Khan Bahadur Azizul Haque, another advocate of control of *melas*, that cholera and other diseases take their start from these *melas*. Now, Sir, what about the city of Calcutta itself? Are not cholera and other diseases prevalent in Calcutta? Secondly, what about villages where there are no *melas* and where there are diseases all the same? Sir, the district boards may, however, insist that where a *mela* or a *hât* is held the proprietor should be bound to keep in reserve a good drinking-water tank. That, however, is quite a different matter, and to ask the proprietor to take out a license is another matter. The district board may be empowered to make provision for good drinking water or tube well or such other things. Whatever it may be, to say that no *mela* can be held without a license will cause hardship to many people. Besides, the man who arranges a *mela* may not necessarily be the owner and he will have to charge heavy fees to the shopkeepers, which will be very hard on the poor people who go to sell their things in the *melas*. Therefore I oppose the section as it stands lock, stock and barrel.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, adversity often makes strange bed fellows, and it is no wonder that the amendment of Mr. Sarat Kumar Roy should find a staunch supporter in my esteemed friend, Maulvi Abul Kasem. Sir, I sincerely regret that the sober, the staid, the dignified representative of the landlords of the Presidency Division, Mr. Roy, should bring forward this amendment and should suggest seriously that this clause should be altogether deleted. He has by doing so provoked unnecessary criticism against the *zamindars* who have been styled as selfish. I am sure that criticism the mover of this amendment at least does not deserve, because he and his family, as is well known, have done so much for sanitation and education in the Rajshahi Division in Bengal. So it is certainly farthest from his intention that his motion should be against public interest. Sir, I draw the attention of the hon'ble mover to the clause as it stands in the Bill. The district board has been authorised to ask owners and lessees of fairs or *melas* or private markets or *hâts* to take out licenses in the interest of public health. There is no need for such a provision. The need was felt long ago and as a matter of fact Government prepared a separate Bill for controlling all such fairs and *melas*. But in view of this amending clause it was considered unnecessary to bring forward that Bill. Only last week, I believe, the House accepted the principle by referring the Mela Bill of Khan Bahadur Azizul Haque to a Select Committee. This provision contains nothing new, but the same principle, namely, that some control should be given to district boards

over such *melas*, *hâts* or markets in the interest of public health. Sir, the gentlemen who opposed this amendment made abundantly clear why such power was necessary. I am sure that even the supporters of Mr. Roy would admit that in places where *melas* are held some sanitary arrangements are necessary in public interest and unless this power is granted the district boards will find themselves in a helpless position. Sir, this amendment has been criticised on the ground that it interferes with private rights. I think it is the trend of all modern legislation that private interest must be sacrificed to public interest. Mr. Roy said that people belonging to different political parties holding different political views would act perversely and would refuse licenses. But the question of refusal does not arise at all because the offer will come from the district board: the district board will ask the owners to take out licenses to be specified by Government by rules.

Babu SATISH CHANDRA RAY CHOWDHURY: May I know if the rules will govern terms and conditions also?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, they will. That is the advice of the Legislative Department. Will the hon'ble member kindly refer to clause 65? That will explain the point. Khan Bahadur Abdul Momin wanted to distinguish between private *hâts* and markets and *melas*. Government gave serious consideration to the point and they are prepared to accept in a modified form the amendment of Rai Bahadur Keshab Chandra Banerji. If that will satisfy the House I think this amendment of Mr. Roy will be unnecessary. With these words I would request Mr. Roy to withdraw his amendment. Shall I read out the amendment?

Mr. PRESIDENT: Yes, please.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We accept the deletion of the words "private *hât* or market" and then insert the following:—

"Subject to any rules made under section 138 it shall be lawful for a district board, by an order in writing, to require the owner or the lessee of a private *hât* or market to make proper sanitary arrangements and to remove any insanitary conditions within such *hât* or market;" and in line 384 of section 100A, after the words "section 100A" insert the words "or in contravention of an order issued under section 100B as the case may be".

That is the amended form in which I propose to accept the amendment of Rai Bahadur Keshab Chandra Banerji. I think that will distinguish private *hâts* and markets from *melas* and in view of this assurance I hope the hon'ble mover will kindly withdraw his motion.

Rai Bahadur SATYENDRA KUMAR DAS: What will be the fate of *melas* which will last for twenty-four hours?

5 p.m.

Mr. SARAT KUMAR ROY: May I rise on a point of information, Sir? Will the owners of *hâts* be also fined heavily if the Hon'ble Minister moves this amendment?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, the penal section will still remain.

Mr. SARAT KUMAR ROY: In that case great injustice will be done to the owners of these *hâts* and *melas*.

Mr. PRESIDENT: It is for you to consider whether you will press or withdraw your amendment in consideration of what the Hon'ble Minister has said; if you are not prepared to withdraw, I shall put your motion to vote.

Mr. SARAT KUMAR ROY: Sir, I beg leave of the House to withdraw my motion.

The motion of Mr. Sarat Kumar Roy was then by leave of the House withdrawn.

Babu KISHORI MOHAN CHAUDHURI: Sir, before I move my amendment I may say that I want to make a slight alteration in it by adding the words "and 100C" after the word "100A" in line 2.

Mr. PRESIDENT: All right, you can do that.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that in clause 58 for proposed sections 100A and 100C the following be substituted, namely:—

"100A. It shall be lawful for a district board to grant to any person it thinks fit a license to hold a fair or *mela* within the district upon such terms and subject to such conditions relating to morality and sanitations as the Local Government may prescribe by rules made under section 138."

My object in moving this amendment is to exclude private markets and *hâts* from requiring them to obtain a license as I think they should be exempted. If in *hâts* and markets, where there are large numbers of shops and stalls, etc., sanitary arrangements are to be made and proper arrangements for their inspections are to be provided and the measures prescribed under the rules are to be enforced, a large number of inspecting staff would be required to cope with the work involved, as the number of such *hâts* and markets are very great. Again, there will be extra taxation on the stall-keepers and vendors to meet the charge, and in consequence a large number of small *hâts* and markets will be compelled to cease to exist to the great inconvenience of the people. This will no doubt be a very unfortunate situation, especially in the *mufassal* where these *hâts* and markets are the sources of supply and demands of the local people. Moreover, if the vendors are heavily taxed it will equally affect the customers as well as the sellers, and it will be a great hardship to them in these days of economic distress, it will certainly be a discouragement to them to pursue their only means of livelihood if they find that their very small profit is being swallowed up by the additional taxation.

As regards *melas* and fairs, I think it is reasonable that they should be required to obtain some license and the district board or local board of that area should look after the sanitation and morality of these *melas* or fairs and realise fees, under the rules which the Local Government may prescribe under section 138. But I do not think that even in such cases heavy fees or taxes should be imposed as this will affect them also. With regard to stoppage of prostitution, I think the word "morality" will serve the purpose and I do not like the word "prostitution" to be put in. So without specifically putting in the word "prostitution" it would cover the ground if the word "morality" is substituted. My ground for including *melas* and fairs is that their number is not so great as *hâts* and markets are and a large number of staff will not be required for their supervision and inspection and consequently the fees or taxes will not be great. Moreover, the health officer whose duty it is to take special precaution in case of epidemic diseases, or scarcity of water and who looks to the general health of the district will see to the proper sanitary condition of these places and with a little mutual help this can be done without much extra cost. He will be able to effect prosecution in case anybody do not comply with the conditions imposed by rules in respect of such *melas* and fairs. So if special provision is made in case of *melas* or fairs it will do away with the vagaries of their owners. But I feel that in case of *hâts* and markets this cannot be done in view of the difficulties explained at the outset.

Mr. H. P. V. TOWNEND: I am afraid that Kishori Babu has not understood the meaning of the amendment which my Hon'ble Minister

intends to move at a later stage. The whole point of that amendment is that private *hâts* and markets should not be subjected to the payment of fees, but that the owners of these *hâts* and markets should be compelled to make proper sanitary arrangements in them. That is a position which, I think I may say, has been accepted by the House, because I do not think it is betraying a secret if I add that this amendment was drafted after consulting members of all parties in this House. Kishori Babu has said that it is not fair that the owners of *hâts* and markets should be put to the great cost of providing for sanitation. My answer to that is, that it is not fair also for the district boards to be put to the great cost of providing for the sanitation of these private *hâts* and markets, which means, in effect, giving a subsidy to the owners of them.

The other point which he made in support of his amendment is that he would limit the conditions of the licenses to matters dealing with morality and sanitation only. I do not suppose that Kishori Babu has much practical knowledge of the control of fairs and *melas*, because there are many other things which have to be dealt with in them besides morality and sanitation. It is also necessary to provide for proper lighting. There is the question of medical arrangements as well as of arrangements for the safety of the public. It is necessary to put up fencing round tanks and wells and also round temples in order to prevent people from being crushed to death by the crowds who press into them.

5-15 p.m.

And there is again the question of providing suitable access to the *melas*. These things can be seen to by the conditions in the proposed clause, and they could not be done under Kishori Babu's amendment.

His remarks in support of the wording of the clause are not very sound. He says that by inserting in the clause the words "conditions relating to morality", he wants merely to deal with prostitution. That is perfectly true, Sir. But his wording would also cover other forms of vice and is much too wide. It is not right to give a district board powers to control morality in general, as they might interfere with the private life of every single person who goes to the *melas*. I do not think, Sir, that all people who attend the *melas* are of unimpeachable purity.

There is another point. Kishori Babu suggests, as an afterthought, that the House should omit section 100C. This is equivalent to a proposal that the House should omit section 100A as well. If the district board have no power to enforce the condition of the license, they might just as well have no power to issue a license at all. I think I have said enough to show that this amendment is not a suitable one.

I oppose the amendment.

Babu KISHORI MOHAN CHAUDHURI: On a point of information, Sir. I should like to know what the decision of Government is about license-fees regarding *hâts* and markets.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: No fees.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. I should like to point out that the decision on this amendment may be postponed——

Mr. PRESIDENT: I am afraid that is not a point of order.

Maulvi SYED MAJID BAKSH: On a point of personal information, Sir. I should like to know whether the Hon'ble Minister has given up the idea of finally realising fees for licenses——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I would request the hon'ble member to listen to the discussion. It will be very difficult for Government to try to answer every question that is addressed to them after the debate on a point is finished, and in such a case there will be no end to questions.

Mr. PRESIDENT: In that case, the best course for you would have been not to rise to reply.

The motion of Babu Kishori Mohan Chaudhuri was then put and lost.

Babu KHETTER MOHAN RAY: Sir, I beg to move that in clause 58 for proposed section 100A the following be substituted, namely:—

"100A. It shall be lawful for a district board to require the owner or the lessee of a fair, or *mela* or private *hat* or market, or an owner or a lessee of land intending to establish a fair or a *mela* or a private *hat* or market thereon, to make suitable arrangements including drainage, to remove any insanitary conditions which may exist and to forbid prostitution within such *mela*, *hât* or fair."

Sanitary arrangement in a fair or *mela* or private *hat* or market.

My object in moving the amendment is to invest the district board with discretionary power to require the proprietors, or lessees of land in which a *mela* or a market is held, to make suitable arrangements for sanitation and prohibit prostitution without granting any license. Difference between the Bill clause and my amendment is this, namely, in the Bill clause, a proprietor or lessee of a *mela* is bound to take license, if required by the district board, for holding every *mela* or market, however old it may be, or whether such *mela* is of short duration or is held for days together. In my amendment, I have left it to the discretion of the board as to whether any steps should be taken in respect to particular market or *mela* for proper sanitary arrangements and prohibition of prostitution without granting license. We know that for every

month and every week, *melas* are held all over the country on the occasion of religious festivals, on the *Pous* and *Chaitra Sankranti* days, Bengali New Year's day and on the death anniversary of some pious *pirs* or *fakirs* or *sadhus*, etc. These *melas* are generally held for a day or two, commencing from the noon till the sunset. Some temporary stalls of flimsy character are erected on such occasion; they are taken away as soon as the *melas* close. Proprietors or lessees do not derive any profit from such *melas*. And I must say here, there are other classes of *melas* which are generally held in private houses and the *devalayas* on the occasion of *Mohotsob* or *Austoprahar sankirtan*. The *melas* are also of temporary duration.

The *melas* I have enumerated above, are generally held without permission of the proprietors or lessees of the land. Villagers have been holding these *melas* from time immemorial and have got vested and prescriptive right to hold such *melas* in particular places. The proprietors or lessees have no right to prevent the holding of these *melas* on those grounds. I know there are *melas* such as *Mehar mela* in Tippera and the *Nagalbando mela* in Dacca which are held continuously for several days and a very large number of people attend such *melas* from far and wide. It is with respect to such *melas* sanitary arrangements are urgently required.

With regard to markets or *hâts*, I may say that there are *hâts* which are held in villages on the open *maidan* which is reserved for this purpose by the villagers. There are no huts or sheds in these *hâts* which are held weekly or bi-weekly where the villagers meet and buy and sell their goods. These *hâts* generally assemble in the afternoon and disperse at the sunset. Proprietors or lessees get no rents or profits from these *hâts* and they require no sanitary arrangements to be made for them. But there are other classes of *hâts* or markets in which the stall-keepers permanently reside and are frequented by a very large number of people. It is with regard to these markets that district board should have powers to compel the proprietors to make proper sanitary arrangements, which are generally neglected by them. Proprietors or lessees of big markets derive decent income from them ranging from Rs. 3,000 to Rs. 20,000. But I regret to say that the proprietors have sadly neglected their duties of keeping the markets neat and clean and providing them with proper drainage. The condition of these markets is so insanitary that these markets are a standing nuisance and menace to the health of the district in which they are situated. In our district (Tippera) Hajiganj, Ramchandra and Gouripore are the big markets where thousands of people assemble on market-days, but they are awfully lacking in sanitary arrangements. People are clamouring for the removal of insanitary conditions but the proprietors turn a deaf ear to their representation. Even the magistrate and the district board who were approached by the people, failed to induce the proprietors to improve the sanitary condition. This state of things prevails also in Bhairab Bazar, in

Mymensingh, perhaps, the biggest market in the East Bengal, and similar other bazars in Dacca and other districts. Proprietors would make enormous profits out of these markets, but they would not spend a pice to keep them in proper sanitary condition. I see there is an amendment tabled to exclude the markets from the operation of this clause. If our object in enacting this clause is to remove insanitary conditions and menaces to the health of the country, then these markets should not be excluded. It will be worse than useless to legislate about *melas* which are held periodically and for short time, if these markets are excluded. As regards license, I may tell the House that it will work hardships on the proprietors of old and established markets to take out a license before holding them.

I can well understand the significance of the rule requiring the persons desirous of establishing markets, to take out a license before doing so, but I cannot conceive any reason why the proprietors of the established markets which are being held from time immemorial should be asked to have a license before further holding these markets. Granting of license is quite unnecessary for the object which we aim at, namely, sanitary improvement of the markets. If the district boards are vested with powers to compel the proprietors to make proper provision for sanitary improvement, this can be done without the grant of any sort of license. If it is made obligatory on the proprietors or lessees to take out license before holding every *mela* or *hât*, it will work hardship on the proprietors of small *hâts* or *melas*, from which they derive no profit. It will wipe out good many *melas* and weekly village *hâts*. In the present state of development of our country, the district board should be made the sole judge to decide whether a particular *mela* or *hât* requires their attention; whether sanitary arrangements should be made for it. If the Bill clause is passed into law, people will not be able to hold religious festivals of which the *melas* are necessary adjuncts, without obtaining a license——

(At 5-30 p.m. the Council was adjourned for prayer and it re-assembled at 5-40 p.m.)

Babu KHETTER MOHAN RAY: Proprietors or lessees of small *hats* and *melas* will not think it worth the trouble and expenses to take out a license before holding them. The result will be that the people will suffer for want of *hats* in their villages and feel inconvenience in observing religious festivals. Every district board is expected to know the creek and corner of the district and which *hat* or market or *mela* requires sanitary arrangement and accordingly do the needful in carrying out the provision of law even without the power of granting a license. For these reasons I move my amendment for the acceptance of the House.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I rise to oppose this amendment because I think the provision of the Bill is much better than the one suggested in this amendment. It is really a substitution of requisition for license and the wording of the amendment is quite vague for he says "suitable arrangements." As I had already assured the House that markets and private *hâts* would be excluded by amendment of section 140, I do not think it is necessary for the mover to press the amendment and I hope he would withdraw it.

Babu SATYA KINKAR SAHANA: On a point information, Sir. In our part of the country there are many *melas* which are held spontaneously. Nobody calls for these *melas*, nobody arranges these *melas* and nobody makes any profit out of them. Such *melas* are held on *Makar Sankranti*, *Maghi Purnima* and in many such occasions during the year. These *melas* are held in Hindu and Muhammadan shrines also. People resort to these *melas* sometimes in thousands. They repair to the rivers and tanks, bathe there, and offer worships to the gods and goddesses that are close by, whenever there is such a concourse of people, persons who carry their shops on their heads come there and start *pan biri*, condiment and trinket shops. The dates and hours of these *melas* are directed by the almanacs. They are considered as incumbent and form an important part of the religious life of rural Bengal. Will the Hon'ble Minister be pleased to state if the provisions of this clause are going to be applied to such *melas*?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: On what point is the information required?

Babu SATYA KINKAR SAHANA: Will the provision of this law apply to such *melas*?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Evidently not. The rules will cover them.

Babu KHETTER MOHAN RAY: In view of what the Hon'ble Minister has said I beg leave to withdraw my amendment.

The motion of Babu Khetter Mohan Ray was then, by leave of the House, withdrawn.

***Maharaja JAGADISH NATH RAY, of Dinajpur:** I beg to move that in clause 58 in proposed section 100A (*1*), in lines 2 and 3, the words "the owner or a lessee of a fair or *mela* or a private *hat* or market or" be omitted.

It will be a very great hardship, particularly in these hard times, if the owner or lessee of a fair or *mela* or a private *hat* or market, which has been in existence for long, or has been continuing for years, be forced now to obtain a license from the district board, on such terms, conditions and fees as they or the Local Government might dictate or prescribe. It would have been a great relief to all, if the sections 100A and 100C could be omitted altogether. But for a progressive improvement in the state of affairs, I am prepared to concede such powers in the hands of the district board, in the case of those *hats* or *melas*, that might come into being in future. I can never be indifferent to the fact that such provision will look somewhat like a partial treatment. But to discriminate between an old existing thing and one, which has not come into existence, can never be bad in principle. And we need not also think about it much, as the Mela Sanitation Bill, referred to the Select Committee only the other day, will, if passed, in whatever form it may be, go a great way to effect improvement of the state generally complained of. I am ready to give practically unlimited powers to the district boards, so far as prostitution is concerned. There ought to be some differentiation between a great evil and a lesser evil; and we must not also be quite revolutionary in our outlook. Where the order of things becomes such as cannot be tolerated without the most serious detriment to public health, or morality, the Government have ample powers always to move in the matter. I hope the spirit, that makes me bring forward this motion, will be quite apparent to my friends. And the purposes of the framer of the Bill, or the Select Committee in amending the section 100A (*1*) in the way they have done, will be practically served if the Government will be pleased to accept it.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I am at one with the mover of the motion in respect of small *melas* which last 24 hours and 48 hours only. Because the proposed section if allowed to remain as it stands will not only interfere with private individual rights of holding such *melas* at his own land and locality but this will wound the religious feelings of the people of the locality if for so many restrictions the private individuals are not able to hold such small *melas* even during *Ratha Jatra*, *Chaitra Sankranti*, New Year's Day and *Jhulan*.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I inquire what he is supporting?

Rai Bahadur SATYENDRA KUMAR DAS: I am supporting the case of small *melas*.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The Maharaja did not say anything about small *melas* or big *melas*.

Mr. PRESIDENT: Do you think that the motion covers your argument?

Rai Bahadur SATYENDRA KUMAR DAS: Yes, Sir. In the absence of any clear definition of *mela* and also without the specific mention about its duration, I cannot see how it is justified to retain such clauses in the Bill without prejudicing the interests and wounding the feelings of private individuals as mentioned aforesaid. Although the object of such legislation is likely to be good both from sanitary and moral point of view as pointed out by other speakers but in case of small *melas* on occasions as specified above there should be a special provision to exclude these *melas* from the operation of these clauses. With these observations I support the motion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: If the Maharaja's amendment is carried then it would mean that the provision of clause 58 will not apply to existing fairs or *melas*. That means that it will defeat the object of the clause. The Rai Bahadur wants to make distinction between *melas* and small *melas*. I do not think it is practicable to make any such distinction as there is no amendment to that effect and I would not deal with that point. If the Maharaja's amendment is accepted the section would become infructuous.

The motion of Maharaja Jagadish Nath Ray, of Dinajpur, was then put and lost.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to move that in clause 58, in proposed section 100A (*1*), the words "or a private *hat* or market" wherever they occur be omitted.

I do not wish to waste the time of this Council by inflicting a long speech for my amendment. The arguments in favour of and against the private *hats* and bazars have already been advanced by many speakers. I simply move the amendment which stands in my name.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I with your permission add the following after that?

Mr. PRESIDENT: You are accepting Rai Bahadur's amendment with this addition?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, with an addition of my own.

Mr. PRESIDENT: Are you then moving the combined motion as your own or shall I put the two amendments separately?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The two should go together. If Rai Bahadur accepts my amendment I have no objection.

Mr. PRESIDENT: I think the Rai Bahadur will have no objection to such an amendment being moved by the Hon'ble Minister.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that—

(*1*) in clause 58, in proposed section 100A (*1*), the words "or a private *hat* or market" wherever they occur be omitted.

(*2*) After section 100A, add the following:—

"100B. Subject to any rules made under section 138 it shall be lawful for a district board, by an order in writing, to require the owner or the lessee of a private *hat* or market to make proper sanitary arrangements and to remove any insanitary conditions within such *hat* or market."

(*3*) and in lines 3 and 4 of section 100C, after the words "section 100A" insert the words "or in contravention of an order issued under section 100B as the case may be"

Mr. PRESIDENT: I now find that the Rai Bahadur had already moved his amendment and if the Hon'ble Minister is to include it in his motion as he has done, the best course would be for the Rai Bahadur to withdraw his amendment first and make room for the combined proposition, as it stands.

Rai Bahadur KESHAB CHANDRA BANERJI: I beg to withdraw my amendment.

The motion was then, by leave of the Council, withdrawn.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I have already moved my amendment.

Mr. NARENDRA KUMAR BASU: I oppose the amendment. The Hon'ble Minister is changing the very simple language of clause 100A to something cumbrous and after deleting the words "private *hats* or markets" he is trying to introduce new provisions 100B and 100C which would be making the lives of the owners of *hats* miserable.

6 p.m.

I think, Sir, in the interest of the private *hat* and market owners, as well as in the interest of the general public, the language of section 100A *(1)* as it stands is quite simple. If the Hon'ble Minister does not want to rope in private *hats* and markets, let him say so. I do not see any reason why private *hats* and markets should be deleted from section 100A *(1)* and then put in in another new clause.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am afraid the position of the landlord has been misunderstood in this House. I have heard several speakers saying that landlords are interested in opposing the control of the district board over the sanitary conditions in *melas*. I may say that is not exactly the position of the landlords. We do our best to keep the *hats* owned by us under sanitary condition as far as practicable. It is to our interest to keep these *hats* and *melas* free from epidemic diseases. Those who know about rural conditions will agree with me when I say that if there is a case of cholera in a *hat* or *mela*, every one as a rule leaves the place in fear. So it is to the interest of the owners of these *melas* and *hats* to do their best to keep those places free from all epidemic diseases. But occasionally an epidemic breaks out and for that reason it is not desirable or reasonable to hold the owners of the *hats* or *melas* responsible. But as we agreed that the district board may have some control over the sanitary conditions in the *hats* or *melas*, I am not opposed to the principle, but I am not so very sure whether the amendment moved by the Hon'ble Minister will be very helpful, because, as my friend Mr. N. K. Basu has already pointed out, this provision may be used to harass the owners of these *hats* and it may prove very objectionable. I do not, however, see any other alternative. We can only hope that when the Government make rules they will see that any unreasonable standard of sanitary condition is not demanded in these *hats*. These *hats* are in rural areas and we cannot expect that standard of sanitary condition in the *hats* in villages as we can expect in towns like Calcutta, and we must also make allowance for the habits of the people.

Then there is another aspect of the question that ought to receive consideration of the Government when they make rules, that is in regard to *melas* that are held in connection with religious festivals. Nothing should be done——

Mr. PRESIDENT: We have nothing to do with that.

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir.

Mr. PRESIDENT: I do not think you can talk about *melas* in connection with religious festivals. *Melas* are excluded from the scope of this amendment. We are considering *hats* and markets.

Mr. SHANTI SHEKHARESWAR RAY: The Hon'ble Minister has brought forward an amendment and we are considering the whole question. Can I not discuss the general principle?

Mr. PRESIDENT: Not now: that stage will come when I shall put the clause.

Mr. SHANTI SHEKHARESWAR RAY: But, Sir—

Mr. PRESIDENT: My ruling is that under this amendment you cannot raise the question of *melas*.

Mr. SHANTI SHEKHARESWAR RAY: Very well, Sir. Of course I have finished so far as *hats* and markets are concerned.

Mr. H. P. V. TOWNEND: May I explain, Sir, some of the points raised in connection with the amendment? Mr. Basu was not present when the Hon'ble Minister explained the position with regard to this amendment and why he wanted to put it in. I must apologize for not being able to circulate printed copies of the amendment, as I realise the extreme difficulty of following amendments when they are read out. Now, the position under this amendment will be that the landlords and owners will be treated not in a more drastic fashion but very much more leniently. They will not have to pay fees for *hats* and markets and they will escape having to pay anything except the cost of the necessary sanitary arrangements. As regards the risk that they might be called upon to make sanitary arrangements of an excellence which is quite uncalled for, as suggested by Mr. Ray, I may point out that the Hon'ble Minister has added the words "subject to any rules made by Government" in order to prevent the possibility of such a thing being done.

As regards the suggestion that no sanitary arrangements are necessary in *hats* and markets in rural areas, because in the districts of which Mr. Ray has practical knowledge people stay away from *hats* in which adequate sanitary arrangements are not made——

Mr. SHANTI SHEKHARESWAR RAY: I did not say that sanitary arrangements are not necessary; what I said was that when there is a cholera case, they generally stay away.

Mr. H. P. V. TOWNEND: Well, Sir, what we are endeavouring to do is to prevent cholera and other diseases spreading in the locality, not to wait till cholera has actually broken out and is spreading. The Hon'ble Member's argument proves the necessity for sanitation in the *hats*, not the reverse.

As regards religious *melas*, perhaps I need not say anything, as it is your ruling that they are not within the scope of this amendment.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Mr. PRESIDENT: Those who, like Mr. Roy, are thinking of speaking on the clause itself after all the amendments relating to the same have been disposed of may be told at this stage that this will be permissible only when the points to be tackled are other than those that have already been disposed of.

Maharaja JAGADISH NATH RAY, of Dinajpur: I formally move the amendment standing in my name—

"that in clause 58 for proposed section 100A (2) the following be substituted, namely:—

'(2) It shall be lawful for a district board to prohibit by timely notice prostitution within any fair or *mela* either newly established or existing beforehand.' "

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I propose to move an amendment myself which will practically cover the next three amendments—the amendment just moved, the next amendment and amendment No. 143. So I am reading out my amendment first and then the Maharaja may perhaps withdraw his.

"For proposed section 100A(2) the following be substituted, namely:-

'100AA. A district board may, by public notice, issued at least one month before the date of any fair or *mela*, prohibit prostitution within such fair or *mela* or within half a mile thereof.' "

Mr. SARAT KUMAR ROY: If the *mela* be held on other people's property, how can the owner restrict prostitution?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The district board will do this by notice. The owner has nothing to do with it. The power is given to the district board.

Khan Bahadur MUHAMMAD ABDUL MOMIN: May I ask for an explanation on some doubtful points which have arisen? As the amendment provides for prohibition of prostitution within half a mile of *melas* or *hats*, what will happen supposing a *hat* or *mela* is established within half a mile of any place where prostitutes reside permanently from before? Will this amendment then require that these permanent residents should vacate the place?

Mr. NARENDRA KUMAR BASU: I do oppose this amendment. As I have very often said in this House you cannot make people moral by legislation, and especially people who attend *melas* or fairs by this sort of legislation, which is bound to be a dead letter, if I may say so. It will be more than a district board could cope with. Accordingly I do not think the Minister is well advised to bring forward this motion.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I answer the question put by the Khan Bahadur? The district board may, or, if there is any difficulty, may not compel them to vacate the place.

The motion of Maharaja Jagadish Nath Roy was, by leave of the Council, withdrawn.

The following motions were called but not moved:—

Maulvi ABUL QUASEM to move that in clause 58 in proposed section 100A(*2*), in line 3, after the word "within" the words "and in the vicinity of" be inserted.

Maulvi TAMIZUDDIN KHAN to move that in clause 58 in proposed section 100A(*2*), in line 3, after the word "within" the words "half a mile of" be inserted.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was put and agreed to.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 58 to the proposed section 100A(*2*) the words "or private *hat* or market" be added.

I have moved the amendment that stands in my name, but it will appear somewhat out of place where it stands according to the amendments already tallied on account of certain amendments already made at the instance of the Hon'ble Minister. But my purpose is quite clear. My object here is to empower district boards to prohibit, if they think necessary and possible, prostitution even in a private *hat* or market. It

may be objected that it would be an impossible task to prohibit prostitution in such cases, but we can visualise cases in which prostitution has become a rampant evil in certain *hats* and markets and I am of opinion that power may be given to district boards to prohibit such prostitution, if the district board thinks it necessary. Therefore it would not be compulsory for the district board to prohibit prostitution in every private *hat* but only in cases where they think it necessary. That is the power, Sir, I want to give the district boards and I hope this amendment will be accepted by the Hon'ble Minister.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I may point out to the mover that this amendment will be hardly necessary because at private markets and *hats* prostitution seldom goes on; besides it will be hardly practicable to enforce this provision if it is accepted by the Council. I would accordingly request the mover to withdraw his motion.

The motion was put and lost.

The following motions were called but not moved:—

Mr. SARAT KUMAR ROY to move that in clause 58, after proposed section 100A, the following be inserted, namely:—

"100AA. An appeal shall lie to the District Magistrate against all orders of refusal by the board to grant a license upon the application of parties interested therein.

100AAA. Any party dissatisfied by the decision of the District Magistrate on such appeal, may move the Divisional Commissioner for a revision of such an appeal.

100AAAA. Where a district board improperly withholds license or improperly exercises its powers the aggrieved party shall also have a right to institute a suit for damages in the civil court against the district board."

Mr. ANANDA MOHAN PODDAR to move that in clause 58 proposed section 100C be omitted.

Rai Bahadur KESHAB CHANDRA BANERJI to move that in clause 58, in proposed section 100C, in lines 1 and 2, the words "or a private *hat* or market" be omitted.

Babu KHETTER MOHAN RAY to move that in clause 58 in proposed section 100C, in lines 2 and 3, for the words "or otherwise than in conformity with the terms of a license granted" the words "complying with the requirements made" be substituted.

Maharaja JAGADISH NATH RAY, of Dinajpur, to move that in clause 58 in proposed section 100C, in lines 3 and 4, for the word, figures and letter "section 100A" the words, figures and brackets "under sub-section (*1*) of section 100A or in violation of the notice given under sub-section (*2*) of that section", and in line 4, for the word "he" the words "such person" be substituted.

Mr. SARAT KUMAR ROY: I beg to move that in clause 58, in proposed section 100C, in line 5, for the words "two hundred" the words "one hundred", and in line 7, for the word "twenty-five" the word "five" be substituted.

Sir, no doubt that the fines proposed to be imposed here are maximum and that as the imposition will be left to the discretionary power of the trying Magistrate, he may not abuse his power. But, Sir, it is not mentioned in the text who will impose the fine; and any authority, either the district board or the District Magistrate who may impose this fine, may do so heavily in a certain case and there may be errors in judgment. In that case I submit, Sir, the owner of the *hat* or *mela* will be quite helpless and unable to seek any remedy anywhere. And, Sir, the majority of the *melas* and *hats* being situated in the rural areas are small affairs; the fines proposed to be imposed here seem to be rather heavy.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I oppose this amendment. The Magistrate will impose the fine and not the district board; it is perfectly clear. The Magistrate will use his discretion and will not impose the maximum fine in every case, although the maximum is laid down here.

The motion of Mr. Sarat Kumar Roy was then put and lost.

The following motions were called but not moved:—

Mr. ANANDA MOHAN PODDAR to move that in clause 58 for proposed section 100D, the following be substituted, namely:—

"100D. If any person, without the sanction of the District Magistrate, constructs a bridge for collecting tolls near a public ferry, or plies a ferry for hire within one mile of a public ferry, which is under the management of a district board, he shall be liable to a fine which may extend to one hundred rupees." Penal for o offen near public ferry.

Maulvi ABUL QUASEM to move that in clause 58, in proposed section 100D, in line 2, for the words "District Magistrate" the words "district board" be substituted.

Maulvi ABDUS SAMAD to move that in clause 58, in proposed section 100D, in line 2, after the words "District Magistrate" the words "in respect of public ferries under the management of Government and of the district board in respect of public ferries under the management of the district board" be inserted.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that in clause 58, in proposed section 100D, in line 4, for the words "one mile" the words "two miles" be substituted.

Sir, it is a consequential amendment and I move it only formally.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I also beg to move that in line 3 of proposed section 100D the words "near a public ferry" be omitted, and that in line 6 of the same section after the words "management of a district board" the words "or a bridge on which the district board is authorised to levy tolls" be inserted.

The motion was put and agreed to.

Mr. SHANTI SHEKHARESWAR RAY: I would like to speak on this clause, Sir, on those portions which are left out.

Mr. PRESIDENT: But you shall have to satisfy me that the points on which you wish to speak are really new points.

Mr. SHANTI SHEKHARESWAR RAY: My point is religious festivals.

Mr. PRESIDENT: I think we have discussed that already.

Mr. SHANTI SHEKHARESWAR RAY: I shall take only one or two minutes.

Mr. PRESIDENT: But that is not the point. I am prepared to give you the full 15 minutes to which you are entitled if you are in order. But you cannot get out of my ruling: it was quite clear and definite. I must shut out discussions on points which have already been disposed of. Amendments were brought in and discussed, thrown out or accepted; so there is hardly any necessity or justification for you to speak on the clause itself and waste the time of the Council unless there are points other than those that have been already dealt with.

The question is that clause 58, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 59.

The following motion was called but not moved:—

Dr. AMULYA RATAN GHOSE to move that in clause 59, in line 3, the word "twice" be omitted.

Mr. PRESIDENT: The question is that clauses 59 and 60 stand part of the Bill.

The motion was put and agreed to.

Clause 61.

Mr. PRESIDENT: The question is that clause 61 stand part of the Bill.

Maulvi TAMIZUDDIN KHAN: I beg to move that in clause 61(*1*), in lines 5 and 6, for the words "not exceeding three years" the words "not exceeding three years to be specified in such notification" be substituted.

Sir, my amendment is of a technical character, but I think it is necessary. Now, according to the proposal of the Hon'ble Minister, Government will not be able to supersede a district board or a local board for more than three years. He also proposes that the words "specified in such a notification" should be omitted. If these words are omitted, it will not be necessary for the Government to specify at the time of superseding a board for what period it is actually superseded; it may be six months, or 1 year, or 2 years or 3 years. Unless the period is specified, the board will be in the dark as to for what period it has been superseded; although my amendment is of a technical nature, yet it must be made quite clear in the notification for what exact period the board has been superseded.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: In that case a notification will have to be issued for the maximum period every time. If Government want to supersede a district board for a shorter period, it cannot be done. That will be the only effect of the amendment.

The motion of Maulvi Tamizuddin Khan was put and lost.

Clauses 61 to 67.

Mr. PRESIDENT: The question before the House is that clauses 61 to 67 do stand part of the Bill.

The following motion was called but not moved:—

Dr. AMULYA RATAN GHOSE to move that in clause 61(*1*), in lines 5 and 6, for the words "three years" the words "one year" be substituted.

7-30 p.m.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that in the clause 61(*2*) for the proposed proviso to section 131, the following be substituted, namely:—

"Provided that, in the case of a district board, instead of superseding the district board under this section, the Local Government may, after consideration of any explanation as aforesaid, by notification, specifying the reasons for so doing, direct that the district board be reconstituted as soon as possible, the necessary elections and appointments of members to be made in accordance with the provisions of this Act relating thereto; and from the date on which the results of such new elections and appointments are published in the *Calcutta Gazette*, all members constituting the former board shall, unless they are re-elected or re-appointed, vacate their offices:

Provided further that the tenure of office of the chairman of the former board shall continue until that office is vacated in the manner provided by section 29AA."

Sir, this motion is just on the lines of a similar section in the Bengal Municipal Act.

Mr. NARENDRA KUMAR BASU: Sir, there is a provision similar to this in the Bengal Municipal Act so that during the interregnum the old board may function, and when the election is complete and the new board is constituted, then and then only the new board can function. This is a situation which has got to be faced.

Mr. PRESIDENT: I think amendment No. 161 falls, if this motion is carried.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Yes, Sir.

The motion was put and agreed to.

The following motion failed:—

Dr. AMULYA RATAN GHOSE to move that in clause 61 (*2*), in the proposed proviso to section 131, in line 8, after the word "formed" the words "within three months from the date of such dissolution" be inserted.

The following motions were called but not moved:—

Clause 65.

Maulvi SYED NAUSHER ALI to move that in clause 65 before clause (*1d*) the following be inserted, namely:—

"(*1*) after clause (*a*) the following clause shall be inserted, namely:—

'(*aI*) determining the amount to be deposited by a candidate for election to a district board under sub-section (*1*) of section 16A and the mode and time for such deposit'."

Babu KHETTER MOHAN RAY and Maulvi SYED NAUSHER ALI to move that in clause 65 before sub-clause (*1a*) the following be inserted, namely:—

"(*1*) after clause (*a*) the following clause shall be inserted, namely:—

'(*aI*) determining the amount to be deposited by a candidate for election to a local board under sub-section (*1*) of the section 16A, and the mode and time for such deposit'."

Babu KHETTER MOHAN RAY to move that clause 65(*4*) be omitted.

Babu KHETTER MOHAN RAY to move that in clause 65(*6*), in lines 2 to 4, the words "and the granting of licenses for holding fairs or *melas* or for holding a private *hat* or market and fixing the fees in respect thereof" be omitted.

Clause 67.

Rai Bahadur SATISH CHANDRA MUKHERJI and Dr. AMULYA RATAN GHOSE to move that in clause 67 in proposed section 148, in lines 3 and 4, the words "and shall not be questioned in any court" be omitted.

Dr. AMULYA RATAN GHOSE to move that in clause 67 in proposed section 149, in lines 7 and 8, for the words "sixty years" the words "twelve years" be substituted.

Mr. PRESIDENT: The question before the House is that clause 61, as amended, and clauses 62 to 67, do stand part of the Bill.

The motion was put and agreed to.

Clause 68.

Mr. PRESIDENT: The question before the House is that clause 68 do stand part of the Bill.

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, I beg to move that in clause 68 after item No. 2(2) (*b*) in Part I of the Fourth Schedule the following be inserted, namely:—

"(*c*) any threat of social boycott."

Sir, I am afraid my motion that after item No. (2) (6) in Part I of the Fouth Schedule, the words "any threat of social boycott" be inserted, may appear to be somewhat peculiar. It may be very jarring to those, who should like to consider such a practice as a very good and legitimate weapon, to bring to book any one, going contrary to the moods of a group of people. I know from my own experience, that very often mischievous people take recourse to this obnoxious practice in coercing even an honest individual. Such threat might have been regarded as a good kind of preventive, in days when people knew less of individual rights or privileges, or when education and culture were unknown in the country. If a fair field for election is, what is intended to be created by the author of the Bill, or by my brother members, I do not think that any reasonable man may object to the inclusion of such a threat as a form of corrupt practice. If the mention of a threat or inducement of any other kind, does not militate against the principles of anybody, I fail to see why it should be objected to. It may be a good practice in other cases; but in the case of an election, such a practice, if not tabooed, will undoubtedly curtail the freedom of the voters to the greatest extent.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Government have no objection to accepting this amendment, because it is exactly on the lines of section 124 of the Bengal Municipal Act.

The motion of Maharaja Jagadish Nath Ray, of Dinajpur, was put and agreed to.

Maharaja JAGADISH NATH RAY, of Dinajpur: Sir, I beg to move that in Part II of the Fourth Schedule item No. 4 be omitted.

Sir, I may say at once, that if it were a question of municipal areas, I should never have thought of proposing such an amendment. Although I am very particular about the elections being made strictly fair, I have also to take count of the condition prevailing in country areas. Any one having experience of elections, knows how difficult it is to move the electors, and they would very often think it wise to keep at home

than to be hustled at the polling booths. However educated an elector may be, it is very seldom that he will take upon himself the bother and trouble, incidental to the exercise of his vote. However strong may be his sense of duty, owing to the country, I have not heard of any country where an elector will undergo privation and suffering, attendant upon a troublesome journey to a polling booth. And those of my friends, who know about the countryside, and the facilities of movement from one place to another, as also the poverty of the people, will readily fall in with me, in the belief, that it would minimise to a very great degree the corruption, that would otherwise pass current, if this restriction were imposed, and if it were declared to be a corrupt practice to make or promise payments, on account of conveyances of an elector.

Mr. NARENDRA KUMAR BASU: Sir, I beg to support this amendment. I think this amendment is really necessary for the purpose of making the elections not a failure. I am quite sure that in most rural areas, it is absolutely necessary to provide conveyances for voters, and I do not see any reason why this should be considered a corrupt practice. I am quite aware of this provision being in vogue in connection with the Bengal Legislative Council election. As has been pointed out by the Maharaja of Dinajpur, it is probably necessary, for the proper exercise of civic rights or the right of voting by the rural electors, to have conveyances supplied to the voters. Elections are often held at places which are at a great distance from the villages, and most of the village voters can ill afford to arrange for their own conveyances. It is really putting a cog in the wheel of elections in rural areas.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose this amendment. This question was discussed threadbare on the floor of this House when the Bengal Municipal Bill was recently enacted into law.

Mr. NARENDRA KUMAR BASU: But conditions are different now.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, Mr. Basu says that conditions are different now. Even if they are different, there are reasons against this amendment, because it will give a rich candidate a great advantage over his poor rival, as he will gladly pay the taxi-hire or *gharry*-hire for the voters and easily take all his men to the polling-booth, whereas his competitor, who is not in that favourable circumstance, will not be able to do so. Moreover, Sir, it is always the duty of the legislature to place before the public an ideal which is to be attained though it may not be done actually in every case. The statute will place a high standard which may not be always reached. For

similar reasons, this provision exists in the Bengal Municipal Act, in the Calcutta Municipal Act, and also in the Bengal Electoral Rules. So, I hope, Sir, that in view of these considerations, the Maharaja will be prepared to withdraw his amendment.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 68, as amended, do stand part of the Bill.

The motion was put and agreed to.

Mr. H. P. V. TOWNEND: With your permission, Sir, as a consequential amendment to clause 65, I beg to move that in line 3, of sub-clause (*6*) of clause 65, the words "or for holding a private *hat* or market" be omitted, and after the words "in respect thereof", in line 4, the words "the standard of sanitary arrangements in private *hats* or markets" be inserted.

I do not think I need explain this.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 65, as amended, do stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that the Preamble do stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to move that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

6-48 p.m.

Adjournment.

The Council then adjourned till 3 p.m., on Thursday, the 1st December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 1st December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 84 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Recruitment of depressed class in police service.

*45. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing for the years 1930 and 1931—

(*i*) how many police sub-inspectors were appointed from the residents of the Dacca Division; and

(*ii*) how many of them belong to the depressed class of Hindus?

(*b*) Has the fitness of the latter classes for service in the Police Department been considered?

(*c*) Are the Government considering the desirability of appointing more depressed class Hindu police officers than in previous years?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) (*i*) 1930—12; 1931—11.

(*ii*) 1930—Nil; 1931—1.

(*b*) Yes.

(*c*) Government recognise the desirability of making appointments from the depressed classes if qualified candidates are forthcoming, and the local officers have instructions to consider the claims of eligible depressed class candidates when making appointments.

Reverend B. A. NAG: Is there any instruction given to the district officers and other officers about appointment of other minorities?

The Hon'ble Mr. W. D. R. PRENTICE: Not generally, but in some services there are certain recruitment rules which deal with other minorities.

Transhipment at Goalundo Ghat.

*46. **Maulvi TAMIZUDDIN KHAN:** (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether there is any proposal to transfer the work of transhipment of passengers and goods from Calcutta to Narayanganj and Chandpur and *vice versa* from the Goalundo Ghat to Khulna and Sirajganj?

(*b*) If so, do the authorities intend to consult public opinion on the matter before coming to a final decision?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) No.

(*b*) Does not arise.

Trade of Bengal.

*47. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Member in charge of the Commerce Department be pleased to lay on the table a statement showing for the last five years—

(*i*) the amount of export and import duties collected annually on different merchandise at the ports of Calcutta and Chittagong;

(*ii*) the approximate value of the imported and of the exported merchandise in Bengal;

(*iii*) the approximate value of the inter-provincial trade in Bengal during the period; and

(*iv*) the approximate value of the internal trade in the province of Bengal?

(*b*) Will the Hon'ble Member be pleased to state—

(*i*) whether the Director of Statistics or any other Government department regularly collects the above trade information; and

(*ii*) whether such informations are published?

MEMBER in charge of COMMERCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*)(*v*) The member is referred to the tables on page 63 *et seq* of the Annual Statement of the Sea-borne Trade and Navigation of the Bengal Presidency for 1930-31.

(*ii*) The member is referred to Summary No. 1, page 3, and Summaries Nos. 2 and 3, pages 4 and 5 of the same Report.

(*iii*) and (*iv*) The collection of inter-provincial and internal trade figures was discontinued in 1923, as the result of the first Retrenchment Committee's Report.

(*b*) (*i*) and (*ii*) Figures for external trade are compiled and published by the Director-General of Commercial Intelligence and Collectors of Customs. No figures are published by the Local Government.

Steamer communication with Tangail.

*48. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) Is the Hon'ble Member in charge of the Marine Department aware—

(*i*) of the inconvenience to the public on account of the steamer communication between Sirajganj and Porabari and Sirajganj and Charabari;

(*ii*) that from the end of October last the Porabari steamer *ghat* has been shifted 7 or 8 miles upstream to a place called Rajnagar without any previous notice to the public;

(*iii*) that Rajnagar is quite an out-of-the-way place and cannot be reached from the Tangail town by any wheeled traffic;

(*iv*) that the passengers coming to Tangail either *via* Porabari or Charabari cannot nowadays reach the Tangail town usually before 3 or 4 p.m.;

(*v*) that the only journey from Tangail to Rajnagar is *via* Charabari; and

(*vi*) that the journey from Charabari to Rajnagar has to be performed by boat requiring 4 to 6 hours' time?

(*b*) Will the Hon'ble Member be pleased to state whether the matter was represented to the Government by the public of Tangail?

(*c*) Will the Hon'ble Member be pleased to state whether it is a fact that Alokdia, whence the Porabari steamer *ghat* has been shifted to Rajnagar, is more suitable and convenient to the public for a steamer *ghat*, being situated opposite west of Charabari, and is connected by a district board road?

(*d*) Will the Hon'ble Member be pleased to state what action, if any, the Government are taking in the matter?

(*e*) Are the Government considering the desirability of urging the steamer companies to shift the Porabari steamer *ghat* to Alokdia or to any other suitable place?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) to (*vi*) No complaint has been received by Government, but it is recognised that inconvenience is occasioned by the shifting of steamer stations. In this case the Porabari station was removed from the site known as Alokdia to Rajnagar, which is about 2½ to 3 miles from Alokdia. Owing to the sudden formation of shoals the deeper drafted vessels on the Goalundo-Bahadurabad service were unable to call at Alokdia, and the station had to be removed to Rajnagar. The shoals formed so quickly that prior notice of the removal could not be given. The Alokdia site however is still open to the Sirajganj feeder service which deals with passengers from and to Tangail, and the companies report they hope to maintain this service through the cold weather months.

(*b*) No.

(*c*), (*d*) and (*e*) *Vide* reply to (*a*). In view of the shoaling, no action can be taken.

Maulvi NUR RAHMAN KHAN EUSUFJI: Will the Hon'ble Member be pleased to state whether it is not a fact that after the removal of the steamer *ghat* from Alokdia, a telegram was sent to the Hon'ble Member in charge of Irrigation?

Mr. PRESIDENT: What is your question?

Maulvi NUR RAHMAN KHAN EUSUFJI: My question is if the Hon'ble Member in charge of Irrigation is not a part of Government.

(No reply.)

Dr. NARESH CHANDRA SEN GUPTA: Has the Hon'ble Member made sure that the Sirajganj feeder service is quite adequate to deal satisfactorily with the passenger traffic from and to Tangail?

The Hon'ble Mr. J. A. WOODHEAD: No inquiries were made on that point, Sir.

British troops' quarters at Dacca.

*49. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) the estimated cost of the construction of quarters and other expenses in connection with the Dorsetshire Regiment which has recently been stationed at Dacca;

(*ii*) the period for which the British troops have been quartered at Dacca;

(*iii*) the total strength of the force; and

(*iv*) whether the cost would be borne by the Government of India or the Government of Bengal?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*i*) The information is not yet available.

(*ii*) The troops will remain at Dacca as long as circumstances require.

(*iii*) One infantry battalion.

(*iv*) The charge will in the main proceed against the central army budget but some expenditure, the exact amount of which is not yet possible to estimate, will fall on provincial revenues.

Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member be pleased to state with reference to reply (*iv*) the reason for saddling the Provincial Government with any charge for the army located in Dacca?

The Hon'ble Mr. W. D. R. PRENTICE: There are certain charges incurred which admittedly should go to the provincial funds.

Dr. NARESH CHANDRA SEN GUPTA: Are we to understand that Government drafted the soldiers into Bengal without calculating the financial burden imposed on her thereby?

The Hon'ble Mr. W. D. R. PRENTICE: No calculations were possible.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if it is the intention of Government to locate the troops there permanently or temporarily?

The Hon'ble Mr. W. D. R. PRENTICE: I would refer the member to answer (*ii*).

Bengal's share of increased duty on salt.

*50. **Mr. S. M. BOSE:** (*a*) Has the attention of the Hon'ble Member in charge of the Commerce Department been drawn to the *communiqué* issued lately by the Collector of Customs, Calcutta, to the effect that the Government of India have decided that an inquiry under section 4 of the Salt (Additional Import Duty) Act should be held into the representations that have been made asking for an increase in the additional import duty on foreign salt?

(*b*) Have the Government of India asked for the views of the local Government on the matter?

(*c*) If so, what opinion has been given by the Bengal Government?

(*d*) Is the Hon'ble Member aware that there exists a very strong feeling in Bengal against the imposition of additional duty on salt?

(*e*) Is the Hon'ble Member also aware of the views of this Council on this matter expressed on the 24th March, 1931, and the 1st March, 1932?

(*f*) Are the Government considering the desirability of informing the Government of India accordingly?

(*g*) Will the Hon'ble Member be pleased to state—

(*i*) the amount received in 1931-32,

(*ii*) the amount received or expected to be received in 1932-33,

by the local Government from the Government of India for Bengal's share of the increased duty on salt?

(*h*) How these amounts have been or are going to be spent?

The Hon'ble Mr. J. A. WOODHEAD: (*a*), (*b*), (*d*) and (*e*) Yes.

(*c*) The matter is under consideration.

(*f*) The Government of India have been informed.

(*g*) (*i*) 1931-32—Rs. 5,36,600.

(*ii*) 1932-33 (from 1st April to the end of September)—Rs. 3,59,100.

(*h*) The amounts have been included in the general revenues of the province.

Dr. NARESH CHANDRA SEN GUPTA: Does the Hon'ble Member remember that there was a definite pledge given that a substantial portion of the salt tax would be earmarked to improve the salt resources of Bengal?

The Hon'ble Mr. J. A. WOODHEAD: By whom?

Dr. NARESH CHANDRA SEN GUPTA: By the Finance Member of the Government of India, the Hon'ble Sir George Schuster.

Dr. NARESH CHANDRA SEN GUPTA: Does Government intend to take steps for developing the salt resources of Bengal?

The Hon'ble Mr. J. A. WOODHEAD: Not at present, but if any suitable scheme is evolved, they will consider the scheme.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the statement of the Hon'ble Member and of the remembrances of other hon'ble members, will the Government consider the desirability of writing to the Government of India whether any assurance was given or not?

(No reply.)

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the amount has been included in the general revenues of the province with the sanction of the Government of India?

The Hon'ble Mr. J. A. WOODHEAD: Sanction of the Government of India was not necessary.

Mr. P. N. CUHA: Is the Hon'ble Member aware that a particular officer, Mr. Pitt, was deputed to Bengal, and if so, what was the result of his investigations?

The Hon'ble Mr. J. A. WOODHEAD: Mr. Pitt was placed on special duty not in Bengal but in Bengal and Bihar and Orissa and I believe his report indicates the impracticability of establishing the salt industry on a commercial basis either in Bengal or in Bihar and Orissa.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member consider the desirability of writing to the Government of India, inquiring what were the circumstances under which this tax was imposed in Bengal?

The Hon'ble Mr. J. A. WOODHEAD: I do not follow the question.

Khan Bahadur Maulvi AZIZUL HAQUE: Is the Hon'ble Member considering the desirability of referring to the Government of India as to the circumstances under which the tax was imposed so far as Bengal was concerned?

The Hon'ble Mr. J. A. WOODHEAD: I still do not follow the question.

Mr. P. N. GUHA: Is it not a fact that the Hon'ble Finance Member of the Government of India, after the receipt of the report of the debates of the Legislative Council, gave a definite undertaking that the money would be spent in fostering the salt industry of Bengal? I refer to the proceedings of the Legislative Assembly.

The Hon'ble Mr. J. A. WOODHEAD: If an undertaking was given it must be on record and I cannot question it.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state if the Government of Bengal is contemplating taking steps to foster the salt industry of Bengal?

The Hon'ble Mr. J. A. WOODHEAD: Yes, Sir, as I said just now, if any practical scheme is evolved.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether the Government of Bengal is making out a scheme or thinking out a scheme or considering a scheme at the present moment?

The Hon'ble Mr. J. A. WOODHEAD: We have given licenses to certain people who contemplate attempting the manufacture of salt in Bengal.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government of Bengal have received any instructions from the Government of India in this connection?

The Hon'ble Mr. J. A. WOODHEAD: I am afraid I cannot carry everything in my head and cannot answer that question offhand.

***50A. Khan Bahadur Maulvi MUHAMMAD ABDUL MOMIN:** (*a*) Is it a fact—

(i) that houses of about 150 Mussalmans of the Chittagong town were searched on the 16th of November, 1932;

(ii) that in the course of the searches Muhammadan ladies were rudely treated and men were assaulted;

(*iii*) that the Moazzen of Alkera Mosque was threatened with a bayonet and prevented from calling the *Azan*; and

(*iv*) that a largely attended meeting of the Mussalmans was held in the Juma Masjid at Chittagong on the 18th November, 1932, in which great resentment was shown at this alleged highhandedness of the police?

(*b*) If the answers to the above be in the affirmative, what action does Government intend taking in the matter?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*)(*i*) Of the 150 to 200 houses which were within the area searched, an approximate total of not more than 50 belonged to Muhammadans.

(*ii*) Muhammadan houses were searched, as in searching such a large area it was impossible to leave any house unsearched. Certain allegations were made as to Muhammadan ladies being rudely treated, but Government are satisfied that none were intentionally subjected to insult or rude treatment. Every effort was made to consider their susceptibilities and 6 superior British officers were present throughout but it is possible that the feelings of some were upset by the circumstances of the search. Government have no information as to men being assaulted, and no complaints of this kind were made to any of the officers present at the search.

(*iii*) The Deputy Inspector-General who inquired into the matter on the 18th and the following days and met the leading Muhammadans on two occasions could get no corroboration of this allegation. No request was made to him or any other officer for permission to go and pray during the search.

(*iv*) It is understood that some meetings were held.

(*b*) Government regret the inconvenience that must inevitably be caused when such operations have to be undertaken. It is their desire that every care should be taken to reduce that inconvenience to a minimum. It would appear that this was done in the present instance and that, subject to the necessary exigencies of the search all possible consideration was shown. No complaints were made to any superior officer during the search. When the Chairman of the Municipality came to the District Magistrate on the following day, the latter gave a careful hearing to his complaints. These were inquired into at length on the 18th and 21st by the Deputy Inspector-General. The latest information is that the Deputy Inspector-General's meeting with the Muhammadans on the 21st has had the effect of allaying excitement, and that his conciliatory attitude has been appreciated.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any absconder or anything of an incriminating nature was found as a result of the house searches?

The Hon'ble Mr. W. D. R. PRENTICE: No absconder was arrested. I am afraid I cannot answer the question with regard to any article of an incriminating nature being found.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state if the house of the chairman of the municipality was searched criminate house searches and the consequent indignities which the householders had to suffer? He has said that these house searches were made on account of the exigencies of circumstances: we want to know what the circumstances were.

The Hon'ble Mr. W. D. R. PRENTICE: Our information was that some absconders lived in that quarter of the town and a search was made in an endeavour to arrest them.

Maulvi ABUL KASEM: As no absconder was found in any of the 200 houses, does not the Government think that they acted on false information or simply for the purpose of ill-treating people?

(No reply.)

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if any step has been taken against the informer on whose information these house searches were carried out?

(No reply.)

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state if the house of the Chairman of the Municipality was searched and the ladies of the household insulted?

The Hon'ble Mr. W. D. R. PRENTICE: The chairman's house was one of the houses in that area and there is nothing to justify the remark that the ladies of the household were insulted.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state if they are prepared to appoint a committee consisting of officials and non-officials to inquire into the conduct of the police, including that of the Deputy Inspector-General of Police?

The Hon'ble Mr. W. D. R. PRENTICE: Certainly not.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Government be pleased to consider the desirability of having an inquiry made by the District Magistrate and not by the police against the conduct of the police officers?

The Hon'ble Mr. W. D. R. PRENTICE: I would point out to the Khan Bahadur that the Deputy Inspector-General of Police, as he knows very well, is a highly responsible officer, and he made an inquiry. As a matter of fact Mr. Hands, the District Magistrate, went out on tour the next morning. You can imagine that by the time that the District Magistrate went out on tour, 18 hours had passed after the occurrence, that is to say, after the searches were made, but even then no complaint of any kind was made to him.

Mr. NARENDRA KUMAR BASU: Having regard to the frequent assurances given by Government and members of Government in this Council and elsewhere, that Muhammadans have no sympathy with terrorists, will Government be pleased to state why, in this case as many as 50 Muhammadan houses were searched in Chittagong?

The Hon'ble Mr. W. D. R. PRENTICE: It is due only to the locality. If the Hon'ble Member knows anything about the local conditions of Chittagong he would realise that there are certain areas and one of these areas was cordoned and inside that cordon not more than 25 per cent. of Muhammadans, whose houses were searched, lived. The police had information that some absconders were hiding in that quarter and hence these searches were made.

GOVERNMENT BILLS.

The Bengal Village Self-Government (Amendment) Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: Mr. President, Sir, I beg to introduce a Bill further to amend the Bengal Village Self-Government Act, 1919.

The question was put and agreed to.

(The Secretary then read the short title of Bill.)

The Hon'ble Mr. W. D. R. PRENTICE: I also beg to move that the said Bill be taken into consideration.

The question was put and agreed to.

The following motions failed:—

Haji BADI AHMED CHOWDHURY to move, by way of amendment, that the Bill be circulated for eliciting public opinion thereon by the 31st January, 1933.

Maulvi HASSAN ALI to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by the 7th January, 1933.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

Mr. C. C. HOOPER: I beg to move that in clause 1 for the word and brackets "(Amendment)" the words and brackets "(Second Amendment)" be substituted.

It is purely a formal amendment. It is for the purpose of distinguishing the present Bill from an Act with the same title which was passed by this Council during the last session, after the present Bill had been drafted.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 1, as amended, stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

Babu HEM CHANDRA ROY CHOUDHURI: Mr. President, Sir, I beg to move that in clause 2, in proposed section 91A, in line 2, for the words "three years" the words "six years" be substituted.

Section 48 of the Civil Procedure Code provides for 12 years' limitation in case of all civil court decrees and decrees of Provincial Small Cause Courts, the pecuniary jurisdiction of which extends only to suits, the claims of which do not exceed Rs. 500. Cheap and speedy remedy in petty suits is no doubt desirable but that does not mean that poor judgment debtors should be harassed by reducing the

ordinary period of limitation. The proposed enactment will not only be embarrassing and very hard to the judgment debtors but will also compel the decree-holder to incur great resentment. Period of limitation being shortened, the decree-holders will be compelled to take speedier steps to realise their dues which may in some cases cause the poor judgment debtors lose what little they have, though they could somehow manage to pay the decretal due if they got sufficient time. May I also move my next amendment, Sir, No. 9?

Mr. PRESIDENT: Yes, you may.

Babu HEM CHANDRA ROY CHOUDHURI: I also beg to move that in clause 2, in the proposed proviso to section 91A, in the last line, for the words "three years" the words "six years" be substituted.

I think, in order to avoid hardship due to shortening the period of limitation the proviso has been added which provides that for execution of instalment decrees application may be made within three years from the date of each instalment. I think this proviso will not help the judgment debtors much, as almost in all cases decree includes an order that in case of default in one instalment the whole decretal amount will be due. In that case, if the judgment debtor cannot pay for a single *kist*, he cannot be expected to pay the whole amount within the period of limitation which is proposed to be only three years. I therefore propose that, considering the present financial distress at least the period of limitation should be extended to six years.

The Hon'ble Mr. W. D. R. PRENTICE: I cannot quite understand why it should be an advantage to the debtor to have a decree hanging over him for six instead of three years; but that is a matter on which there may reasonably be a difference of opinion. But what I should like the Council to realise is that, this provision was inserted in the rules in 1920 and these rules were circulated and no objection was taken to them. We have been working them ever since without any objection from the public or any one else.

3 p.m.

Unfortunately the technical question was raised last year as to whether a rule to this effect was *intra vires* of the Act and we were advised that it was not, and that such a provision must find place in the Act itself. This is the only reason why this amending Bill is required, and in view of the facts I have stated I suggest that there is no reason why the period which has been in force for 12 years or so, should be extended to six years. I oppose the motion.

The motions of Babu Hem Chandra Roy Choudhuri were then put and lost.

Mr. ANANDA MOHAN PODDAR to move that in clause 2, after proposed section 91A, the following be inserted, namely:—

"Provided also that when a decree of a union court is transferred to a munsif's court under section 91 of the Bengal Village Self-Government Act, 1919, for execution thereof the limit of time for such execution shall be twelve years as under section 48 of the Code of Civil Procedure, 1908."

Sir, the object of the proposed section 91A is to provide for a period of limitation for entertainment of any application for execution of a decree passed by a union court.

The period of limitation provided for by the section is three years. I do not think that the period of limitation of three years is suitable or adequate for the execution of a decree. Under section 48 of the Civil Procedure Code, the period of limitation for execution of decree of all sorts, except a decree granting an injunction, is twelve years.

Section 91 of the Bengal Village Self-Government Act provides that a decree of a union court may be transferred to a munsif's court and the same section also provides that in executing a decree of a union court a munsif shall have the same powers and follow the same procedure as if he were executing a decree passed by himself. Now, my point is this that if you allow the union court decree to be transferred to a munsif's court for execution why should there be this invidious distinction between the two kinds of decrees and why the union court decree should be deprived of the same privilege as the munsif court decree. As for the nature of suits the munsif court also deals with exactly the same class of suits as is dealt by the union court. So when there is a transfer any differential treatment would be inequitable and against the best interest of the decree-holder.

As regards the cheap and speedy remedy of petty suits which is the object of a union court procedure, I do not like to disturb the powers of the union court, where the period is prescribed as three years. But when the decree is transferred to a munsif's court I want that the decree-holder should enjoy the same right and privilege as if it was a decree of the munsif court itself.

For the reasons stated above I move that the new proviso standing in my name should be inserted in the clause.

Rai Bahadur SATYENDRA KUMAR DAS: Sir, I rise in support of the motion. It is a right move for the mover as a representative of

mahajans to bring in such a motion. I quite realise the reasonableness of his claim for insertion of such a clause for furthering the interests of both the creditors and debtors when there is a provision for transfer of union court decree to a munsif court under section 91 of Bengal Village Self-Government Act, 1919; it is quite meet and proper that the time limit for execution of such decree should be extended to twelve years under section 48 of the Civil Procedure Code of 1908, to the mutual advantage of both judgment creditors and debtors. Canons, rather than principles, of law being the same in both the courts I do not see why there should be any departure from the principles enunciated while enacting the Civil Procedure Code of 1908. With these words I lend my unstinted support to the motion of my friend, Mr. Poddar.

The Hon'ble Mr. W. D. R. PRENTICE: I am surprised to find that the *mahajans* are taking so much interest on behalf of the judgment debtors. I am afraid it is a case of "timeo Danaos". After all the *mahajans* are not compelled to go to union courts with their suits, they can go to the munsifs' courts if they prefer. All we say is that if he chooses to sue in the union court he must be bound by the limitations of such courts and cannot expect to have the same conditions as those in munsifs' courts.

I oppose the motion.

The motion of Mr. Ananda Mohan Poddar was then put and lost.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Presidency Small Cause Courts (Bengal Amendment) Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to introduce the Presidency Small Cause Courts (Bengal Amendment) Bill, 1932.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill be taken into consideration.

The motion was put and agreed to.

The following motions failed:—

Haji BADI AHMED CHOWDHURY to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by 31st January, 1933.

Maulvi HASSAN ALI to move, by way of amendment, that the Bill be circulated for the purpose of eliciting public opinion thereon by the 1st January, 1933.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that in clause 3, in proposed section 72A, lines 5 and 6, for the words "summonses and warrants of arrest" the word "processes" be substituted.

Sir, after the Bill was issued it was pointed out by the Chief Judge of the Small Cause Court that, besides summonses and warrants, other processes are issued for which charges are levied under the existing practice and that it would be well if the word "processes" were substituted for the words "summonses and warrants of arrests" so as to cover all such notices. This I propose to do by the amendment.

Mr. PRESIDENT: The question is that clause 3 as amended stand part of the Bill.

The motion was put and agreed to.

Clause 4.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill as settled in Council be passed.

The motion was put and agreed to.

The Bengal Suppression of Terrorist Outrages (Amendment) Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to introduce the Bengal Suppression of Terrorist Outrages (Amendment) Bill, 1932.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill be taken into consideration.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill be passed.

The motion was put and agreed to.

The Bengal Land Revenue Sales (Repealing) Bill, 1932.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg leave to introduce a Bill to repeal the Bengal Land Revenue Sales Act, 1841.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the said Bill be taken into consideration.

The motion was put and agreed to.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to move that the said Bill be passed.

The motion was put and agreed to.

Revised Programme of Business.

Mr. PRESIDENT: I should like to read out the revised programme of work with dates and time for the remainder of the session:

Government Bills up to item 23 in the List of Business, dated 29th November, 1932—that we have finished.

(1) On the 5th of December Government Bills—Items Nos. 24 to 28 in the said List of Business.

(2) The Financial Business set out in items Nos. 29 to 34 in the said List of Business is fixed as follows:—

(*i*) item No. 30—5 minutes.

(*ii*) items Nos. 31 to 33—1 hour.

(*iii*) item No. 34—1 hour.

There will be no meeting on account of the Durbar on the 6th December.

7th December has been allotted for the disposal of the special motion of Khan Bahadur Muhammad Abdul Momin relating to the Retrenchment Committee's proposals. There will be no sitting on the 8th, 9th, 10th and 11th. The Council will meet again on the 12th and 13th December for disposal of official business as follows:—

(1) Bengal Public Security Bill—consideration and passing.

(2) Calcutta Municipal (Second Amendment) Bill—consideration and passing.

(3) Introduction and reference to Select Committee of the Bengal Patni Taluks (Regulation) Amendment Bill, 1932.

(4) Any other Government business that may be notified hereafter.

Adjournment.

The Council was then adjourned till 3 p.m., on Monday, the 5th December, 1932, in the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 5th December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, two Hon'ble Ministers (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur, being absent) and 109 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Libraries in hospitals.

***51. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether reading facilities are provided in Government hospitals?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a statement showing the particulars of—

(*i*) the number of volumes in,

(*ii*) the approximate average expenditure per year of,

the libraries maintained at different hospitals?

(*c*) Will the Hon'ble Minister be pleased to state whether the libraries in the different hospitals are under the charge of a Librarian?

(*d*) Are the Government considering the desirability of drawing the attention of the officers-in-charge of different hospitals about the efficacy of Biblio-therapy in curing the patients?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*), (*b*) and (*c*) No libraries are maintained officially in the Government hospitals. In a few of the larger hospitals small libraries are kept up by the nursing staff with books given for the purpose by patients, clubs, etc. Details regarding these libraries are not known.

(*d*) No.

Moslem students in Presidency College enjoying free studentships.

*52. **Maulvi SYED MAJID BAKSH:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the last five years—

(*i*) names of the members of the—

(*1*) free studentship award committee, and

(*2*) governing body of the Presidency College;

(*ii*) the name and number of Moslem post-graduate students in the Presidency College—

(*1*) who applied for free studentship; and

(*2*) who got them during the period?

(*b*) Is there any Government circular which enables a Moslem student to avail himself of part-free studentships and Mohsin stipends?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) (*i*) A statement is laid on the library table.

(*ii*) A statement is laid on the table.

(*b*) Yes, there is a Government order to this effect.

Statement referred to in the reply to clause (a) (ii) of starred question No. 52.

The number of Moslem post-graduate students who received part-free studentships was as follows:—

1927-28—Nil.

1928-29—Nil.

1929-30—1.

1930-31—1.

1931-32—2.

The number and names of the applic
and Government would not think it desirable to disclose the names either of the applicants or of the recipients.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to state why in 1927-28, when there were 14 Muslim candidates for free studentships, no free studentship was awarded to any Muslim student?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Free studentships are awarded by a sub-committee consisting of Hindu and Muslim members of the staff; as their records for the year 1927-28 have not been kept, it is not possible to give the reasons why they did not consider that the circumstances of the Muslim students justified the grant of free studentships.

Maulvi ABDUL KARIM: Am I to understand that out of the 14 Moslem students in the year 1927-28 and out of 13 in the year 1928-29, there was not a single student who deserved the concession?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have already stated that the reasons are not on record, and it is very difficult to say what were the reasons which led the committee not to award any free studentship.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether he has noticed the fact that in Government colleges, owing to the existence of one or two Mohsin stipends, Moslem students do not generally get free studentships or half-free studentships?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The question does not arise.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order, Sir. It does arise inasmuch as the Presidency College is also guilty of the same offence. I wanted to know whether it is not generally the fact that, owing to the existence of one or two Mohsin free studentships in Government colleges, the tendency is not to consider the cases of deserving Moslem students.

The Hon'ble Mr. KHWAJA NAZIMUDDIN: My attention has not been drawn to this question.

Babu LALIT KUMAR BAL: Will the Hon'ble Minister be pleased to state whether the depressed classes are represented on the said committee?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I should like to have notice of this question.

Babu LALIT KUMAR BAL: Will the Hon'ble Minister be pleased to state whether there are any students belonging to the depressed classes who are in the enjoyment of such free studentships?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I should like to have notice of this question.

Maulvi ABDUL KARIM: Will the Hon'ble Minister be pleased to inquire under what conditions this concession was granted in previous years?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I am afraid, Sir, it is impossible to answer this question. The committee sat long ago and there are no papers.

Irrigation of fallow bils for paddy-growing.

***53. Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware that there are extensive fallow water-logged *bils* in Bengal able to produce paddy crops under proper drainage?

(*b*) Is any money earmarked each year for works to be done under the Bengal Agricultural and Sanitary Improvement Act for the purpose of drainage of the said areas?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Member be pleased to state the amount so spent per year for the last five years?

(*d*) If no money is earmarked for the purpose, are the Government considering the desirability of doing the same from the next year?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) Yes. There are some such *bils*.

(*b*) No.

(*c*) Does not arise.

(*d*) The cost of works under the Bengal Agricultural and Sanitary Improvement Act is met by the persons benefited. Government may advance the cost of such scheme, but owing to financial stringency it is not possible to make any provision for such advances in next year's budget.

Security deposit by excise vendors.

*54. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to state—

(*i*) the total amount at present in deposit from the excise vendors in Bengal;

(*ii*) the principle on which such security deposit is demanded from the vendors;

(*iii*) the rate of interest allowed, if any, on such deposited amount; and

(*iv*) whether any reduction in the deposited amount is allowed along with the decrease in sale, if any, in any particular shop?

(*b*) If the answer to (*a*) (*iii*) is in the negative, will the Hon'ble Minister be pleased to state whether the Government are considering the desirability of allowing a reasonable interest on the deposited amount?

(*c*) If the answer to (*a*) (*iv*) is in the negative, will the Hon'ble Minister be pleased to state whether it is in the contemplation of Government to reduce the amount of deposit in view of the reduction of sale?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) (*i*) The information is not readily available and much time and labour will be involved in collecting the figures.

(*ii*) The member is referred to the Press *communiqué* dated June 4, 1932, on the subject, of which a copy is placed on the library table.

(*iii*) No interest is allowed, the deposit being taken as payment in advance of license fee and not security deposit.

(*iv*) No reduction in the deposited amount is made when sales decrease. Similarly no increased deposit is demanded when sales improve.

(*b*) and (*c*) No.

Grievances of Sunderban landholders.

*55. **Mr. SURENDRA NATH LAW:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether the Government have received any memorial from the Sunderban

Landholders' Association stating their grievances under the new rules for resettlement of the Sunderban estates held under the Grant Rules of 1853 and 1879?

(*b*) If so, how many such memorials have been received and when were they received?

(*c*) Are the Government considering the desirability of making any further inquiry into the grievances of these settlement holders as disclosed in the aforesaid memorials?

(*d*) Have the said memorials been disposed of and, if so, with what result?

(*e*) If the answer to (*d*) is in the negative, what are the reasons for the delay?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Yes.

(*b*) Three: on 21st August, 1931, 24th February, 1932, and 2nd May, 1932, respectively.

(*c*) Yes.

(*d*) The first memorial was rejected; the other two are pending.

(*e*) The second memorial praying for reconsideration of the orders passed on the first as regards suspension of revenue has not been disposed of as the question depended on further developments in the situation. The third memorial deals with several important questions in which no final decision has been reached.

Water-logged areas in and about Dhakuria.

***56. MUNINDRA DEB RAI MAHASA':** (*a*) Has the attention of the Hon'ble Member in charge of the Irrigation Department been drawn to the resolutions passed at a public meeting of the residents of Chaubaga, Kasba, Tiljala and 20 other villages situated within the Sadar subdivision of Alipore, 24-Parganas, held at Charakdanga Maidan, Zaharbazar, Dhakuria P. O., on the 27th March and 3rd April, 1932, requesting the authorities to take immediate measures to drain out water from the aforesaid villages which remained submerged during the rains?

(*b*) Will the Government be pleased to state what steps, if any, they intend taking in the matter?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: (*a*) Yes.

*(b) The flooding of this area is due to the deterioration of the Bidyadhari river. The matter is under investigation but there is very little hope of finding an outlet for the water in view of the silted condition of the Bidyadhari river.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Member be pleased to state whether Government consider it impossible to afford relief to the inhabitants of these vast water-logged areas?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I have nothing further to add.

MUNINDRA DEB RAI MAHASAI: Is there no other mode of giving relief?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I am not aware of any.

3-15 p.m.

Special Jails at Dum Dum and Hijli.

*57. **Babu SUK LAL NAG:** (a) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether the Special Jails at Dum Dum and at Hijli satisfy the conditions laid down in rule 1134 of Chapter XXXVIII of the Jail Code—

(*i*) as regards the superficial area allowed for each prisoner;

(*ii*) as regards provision for wooden shutters for windows;

(*iii*) as regards verandahs; and

(*iv*) as regards ventilation?

(*b*) Do the hospitals satisfy the conditions laid down in rule 1135 of the Jail Code?

(*c*) What was the maximum number of prisoners in each block of wards 5, 11, 15 and 32 of the Special Jail at Dum Dum in June, 1932, and what were the respective superficial areas of those blocks?

(*d*) Did any prisoner apply for hand-fans? If so, with what result?

(*e*) Will the Hon'ble Member be pleased to state whether there is any defect in the matter of ventilation?

(*f*) If the answer to (*e*) is in the affirmative, are the Government considering the desirability of permitting the use of hand-fans by the prisoners?

(*g*) Is the use of hand-fans prohibited by the Jail Code? If so, under what rule therein?

(*h*) Is it in the contemplation of Government to pass general orders permitting the use of hand-fans by the prisoners during the hot season?

(*i*) Is it a fact that the provisions of rule 1147 of the Jail Code are not followed in the Dum Dum Special Jail?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Jail Code Rule 1134 refers mainly to jail buildings when newly constructed and does not apply to temporary jails.

(*i*) Superficial area per prisoner is in accordance with scale.

(*ii*) and (*iii*) Do not apply.

(*iv*) Ventilation is sufficient.

(*b*) Yes.

(*c*) Ward 5—

Maximum number of prisoners—116.

Superficial area—10,059 square feet.

Ward 11—

Maximum number of prisoners—168.

Superficial area—26,458 square feet.

Ward 15—

Maximum number of prisoners—208.

Superficial area—17,036 square feet.

Ward 32—

Maximum number of prisoners—388.

Superficial area—23,392 square feet.

(*d*) Yes. The application was refused. Further, on inquiry it was ascertained that hand-fans are not allowed in some of the other provinces which are much hotter in summer than Bengal. This inquiry was made last summer to deal with a suggestion made by an M.L.C. about supply of hand-fans to prisoners.

(*e*) No.

(*f*) Does not arise.

(*g*) There is no provision in the Jail Code for the use of hand-fans by prisoners.

(*h*) and (*i*) No.

Attarabanka river.

*58. **Babu SUK LAL NAG:** (*a*) Is the Hon'ble Member in charge of the Irrigation Department aware—

(*i*) that the river Attarabanka in the Khulna district is gradually shrinking;

(*ii*) that it has become very shallow at its junction with the Madhumati river, and

(*iii*) that the said junction is shifting each year further to the east rendering navigation dangerous and practically impossible?

(*b*) Is it a fact that the Up-Barisal Express steamers have to abandon the Attarabanka route during the dry season?

(*c*) If so, what is the reason therefor?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: (*a*) (*i*) and (*ii*) Yes.

(*iii*) Yes; but it is not rendering navigation dangerous or impossible.

(*b*) The Barisal Express steamers use the Halifax Cut route in preference to the Attarabanka route during the dry season.

(*c*) The reason is to avoid the danger of delay in having to wait for a favourable tide in the Attarabanka route.

Auditing accounts of co-operative banks.

*59. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Minister-in-charge of the Agriculture and Industries Department be pleased to state—

(*i*) whether adequate arrangements have been made for auditing the accounts of the co-operative banks in the province; and

(*ii*) whether steps have been taken for conducting the running audits for the more important co-operative banks, urban or rural, transacting business of over Rs. 1,00,000 a year?

SECRETARY to GOVERNMENT, AGRICULTURE and INDUSTRIES DEPARTMENT (Mr. L. R. Fawcus): (*i*) and (*ii*) Yes.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state what those adequate arrangements are?

Mr. L. R. FAWCUS : The number of auditors has been recently increased and arrangements have been made for revising the system of audit by a number of supplementary orders and rules which the Government have issued.

Subhankari Darna in Bankura.

*60. **Babu SATYA KINKAR SAHANA:** Will the Hon'ble Member in charge of the Irrigation Department be pleased to state—

(*i*) the amount of public revenue actually spent over irrigation in 1931-32 and in 1932-33 up to the end of October;

(*ii*) what amount out of that has been spent during that period over irrigation in the district of Bankura; and

(*iii*) what amount, if any, has been spent for the improvement of Subhankari Darna in the said district?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: A statement is laid on the table.

Statement referred to in the reply to starred question No. 60, showing amounts spent on irrigation.

	1931-32.	1932-33.
	Rs.	Rs.
(*i*) In Bengal—		
Capital expenditure	20,19,627	4,74,086*
Revenue expenditure ..	2,48,695	65,725*
(*ii*) In Bankura district	1,847	1,195†
(*iii*) On survey of the Subhankari Darna	88	Nil.

*Up to end of September. †Up to end of October.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state if Bankura have got facilities for irrigation or not and whether it is a dry district or a wet district?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: The words *wet* and *dry* have got various meanings. What meaning is going to be put to them in this case?

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state whether there are facilities for irrigation of land or whether there is no water for irrigation?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: There is no such facility.

Babu SATYA KINKAR SAHANA: If it is a dry district, will the Hon'ble Member be pleased to state why so little has been allotted to Bankura?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I have already said that I must have notice.

Khastagir High English School.

*61. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether the Government have made any provision for imparting religious instruction to the Muslim girls receiving education in the Khastagir High English School in Chittagong?

(*b*) If the answer to (*a*) is in the negative, are the Government considering the desirability of doing the same in the near future by appointing a Muslim mistress?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) and (*b*) No, but Government have appointed a Maulvi for teaching Arabic and Persian.

Process-servers of Comilla.

*62. **Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether any process-servers of civil courts have been discharged from the district of Comilla in 1931-32 as a measure of retrenchment?

(*b*) If so, what is their number?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) and (*b*) There are 35 peons in excess. Notice of discharge has been given to them to take effect from 23rd December, 1932.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Process-servers' grievances.

11. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether it is a fact that the process-servers are not given pen, pencil, ink, paper and blotter to write out their reports of service of processes?

(*b*) Has any action been taken on the petition submitted by the process-servers of Jhenida (Jessore) complaining that the said stationery articles were refused to them?

(*c*) Is the Hon'ble Member considering the desirability of inquiring into the grievances of the process-servers in this matter?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) The practice is not uniform in all districts.

(*b*) No such petition has been received.

(*c*) Government have no information of the existence of any such grievance.

Election of Chairman, Mymensingh District Board.

12. Maulvi ABDUL HAMID SHAH: (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware—

(*i*) that the district board of Mymensingh enjoyed the privilege of electing non-official chairman for several years;

(*ii*) that the order granting the above privilege was rescinded in 1929; and

(*iii*) that the board passed resolutions on several occasions demanding the restoration of the said right?

(*b*) Are the Government considering the desirability of restoring the power of electing the chairman by the new board?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*), (*ii*), (*iii*) Yes.

(*b*) Orders restoring the privilege of electing the chairman have already been passed.

Sundarban estates.

13. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether in the recent revised rules for the resettlement of the Sundarban estates held under the Grant Rules of 1853 and 1879, a differential treatment has been made between the two classes of estates with particular reference to the granting of special allowance for embankment charges?

The Hon'ble Sir PROVASH CHUNDER MITTER: No rules have been issued. The grants under the rules of 1879 are tenures and not estates and are held under different conditions from the grants under the rules of 1853.

In revising the settlement of grants under the rules of 1853 ample allowance was made for the cost of maintaining embankments and no special embankment allowance was necessary.

Collection of tickets at the Burdwan railway station.

14. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Is the Hon'ble Member in charge of the Public Works (Railways) Department aware that it has been the practice at the Burdwan railway station to collect tickets of the passengers of the trains arriving at Nos. 2 and 3 platforms at the overbridge gate of the said platforms and to reweigh the luggages, in cases of doubt, at No. 1 platform after the passengers have handed over the tickets, and to detain them for making necessary inquiries about their tickets?

(*b*) If the answer to (*a*) is in the affirmative, are the Government considering the desirability of drawing the attention of the railway authorities to the matter with a view to remove the consequent inconvenience caused to passengers?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Tickets of passengers arriving by trains at Nos. 2 and 3 platforms at Burdwan are collected at the overbridge gate of the platforms where a scale is provided for the purpose of weighing luggage in doubtful cases.

(*b*) Does not arise.

Spotlinger's vaccine for tuberculosis.

15. Dr. AMULYA RATAN GHOSE: (*a*) Is the Hon'ble Minister in charge of the Public Health Department aware that Spotlinger's vaccine has been claimed in European countries as a specific remedy for tuberculosis?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the vaccine has been experimented upon the patients under treatment in the hospitals of Bengal; if so, with what result?

(*c*) Has any action for the experiment of the vaccine been taken by the Public Health Department in Bengal? If so, with what result?

(*d*) If the answer to (*c*) is in the negative, will the Hon'ble Minister be pleased to state the reason therefor?

(*e*) Are the Government considering the desirability of experimenting the vaccine in Bengal and publishing the reports thereon?

MINISTER in charge of PUBLIC HEALTH DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Such claims have been made for Spahlinger's vaccine.

(*b*) Not in any hospital under this Government.

(*c*) No.

(*d*) The claims are not borne out by the published reports.

(*e*) No. The experiments made in Europe have not been sufficiently encouraging to justify any in Bengal.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Minister be pleased to state with regard to answer (*a*) what are his sources of information?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: We were advised by experts of Government.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Minister be pleased to state what his authority is in saying that the claims are not borne out by the public report?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Minister be pleased to state how is it that he says in answer to (*c*) that the experiments made in Europe have not been sufficiently encouraging to justify any in Bengal when in answer to (*a*) he says that he got his authority from Government experts?

(No reply.)

Co-operative movement.

16. Dr. NARESH CHANDRA SEN GUPTA: (*a*) Will the Hon'ble Mininster in charge of the Agriculture and Industries Department be pleased to state whether it is a fact that the co-operative movement in Bengal is threatened with a serious breakdown as a result of the economic depression and other causes?

(*b*) Will the Hon'ble Minister be pleased to lay on the table a statement showing the exact financial position of co-operative societies, central banks and the provincial bank at the present moment?

(*c*) Have the Government under consideration any proposals for securing for the co-operative movement the finance necessary to enable the same to tide over the present difficulties and to enable it to expand and help in materially developing the economic resources of the province?

(*d*) Do the Government contemplate the appointment of an expert body to investigate the present condition of the co-operative societies and to suggest ways and means for their improvement?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) The co-operative movement has been passing through a very difficult time owing to the present economic depression and other causes which have imposed a very severe strain on it.

(*b*) Statements are laid on the library table. The figures are for the year ending 30th June, 1932. Later figures are not available.

(*c*) Government have guaranteed a cash credit for Rs. 30 lakhs in favour of the Bengal Provincial Co-operative Bank, Limited, by the Imperial Bank of India, but it has not so far been necessary for the Provincial Co-operative Bank to avail itself of that credit.

(*d*) No. The working of the co-operative movement was very recently investigated in detail by the Provincial Banking Enquiry Committee which pointed out the defects and made suggestions for improvement. Valuable suggestions have also been made by the Indian Central Banking Enquiry Committee for the benefit of the movement. Measures have been adopted with a view to removing the defects and effecting the improvements suggested.

Control of drugs.

17. Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the Government propose to initiate measures for the control of inert drugs or drugs of inferior quality sold in the province?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: The Government of India have under their consideration the report of the committee appointed by them to make recommendations as to the standardisation of the preparation and sale of drugs in India. The Government of Bengal therefore do not propose to take any steps in the matter.

GOVERNMENT BILLS.

The Bengal Criminal Law (Arms and Explosives) Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg leave to introduce the Bengal Criminal Law (Arms and Explosives) Bill, 1932.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the said Bill be taken into consideration.

Mr. P. BANERJI: I beg to move, by way of amendment, that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st January, 1933.

I have often spoken on this subject that whenever a non-official Bill is brought before the Council, the opposition comes from the Government. First they ask for circulation and then a reference to Select Committee and then to come before the House in the usual way. In this case I do not know why the same system cannot be followed. I beg to point out that instead of circulation the Hon'ble Mr. Prentice has neither suggested that public opinion should be called for, nor that this Bill should be referred to a Select Committee, but he wants to pass this Bill in course of the day. My point is that the Arms Act was introduced in 1878 when the state of the country was much more disturbed than at the present time. The Bill has been introduced in order to enhance the punishment. In those days, half a century ago, in the disturbed condition of the country the British administration was not as firm as it is now. In those days three years' punishment was sufficient, but now it is found necessary to enhance the punishment to transportation for life. This shows that the British administration has hopelessly failed in this country. We would have been rather satisfied if there had been no such legislation to-day. It is unpleasant to comment on the British rule. The object of the Bill is to send people to the Andamans. If we look into the history of the world we

find that such attempts were made in Russia, where prevailed the most despotic rule, when some people were sent to Siberia. But what was the result? The result was that Siberia failed to give the desired effect. Similarly Andamans will fail. I say that the object will be frustrated and it will have a demoralising effect on the trade and commerce of the country. We are passing through bad times on account of trade depression and if the people outside know that the British administration has come to such a position that after half a century they are enhancing the punishment, they would come to the conclusion that the British administration in this country has failed. The Hon'ble Mr. Prentice is aware of the general state of affairs of this country—that there has been a great trade depression He should not ignore this very important matter and he should take the opinion of the trading community in the country. This would require only a month and a half and I do not think that during this one and a half month's time anything worse will happen. The public opinion, so far as I am aware, is against transportation for life to the Andamans. I, therefore, request the Hon'ble Member to accept this amendment that the Bill be circulated for public opinion.

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid Government must oppose this motion. Mr. Banerji has said that the normal procedure in connection with the private Bills is first circulation for public opinion, then reference to Select Committee and then consideration of the Bill, and this should be followed in the case of Government Bills. But the procedure depends on the nature of each Bill and I am perfectly certain that if Mr. Banerji goes through the list of Government Bills presented to this Council during the last few years, he will find that the procedure that has been followed has depended entirely on the nature of the Bill, and that if it were a simple Bill, it has neither been sent for circulation nor been referred to Select Committee. For example, during its last sitting the Council passed three or four Bills of this kind. There is no normal procedure for Government Bills. We thought and still think that this is a perfectly simple Bill and as such does not require circulation. This Bill has been forced on us by terrorism and it deals with two subjects, *viz.*, increased penalties for certain offences under the Arms and Explosives Acts, and increased facilities for trying such cases. The Bill increases the penalty that can be inflicted on smugglers of arms, unlicensed custodians of arms or unlicensed possessors of arms. It also increases the penalty for those who possess or use explosives, or who import material for explosives under circumstances which they cannot explain, in connection with terrorist outrages, and the last thing it does is to provide that people who are engaged in smuggling arms for profit can be tried by Commissioners appointed under the Bengal Criminal

Law Amendment Act or by special Magistrates under the Bengal Terrorist Outrages Act. It is a perfectly simple Bill and we do not think there is anything abstruse in it, which makes circulation or reference to a Select Committee necessary or desirable.

The question of the actual punishment for the various offences will come up for discussion under some other amendments of which notice has been given. Here I need only say that transportation for life is not the only punishment that can be inflicted; there are other alternative penalties also.

Mr. Banerji has said that trade and commerce being in a bad way already the position would be worse as a result of the passing of this Act. I imagine that the bodies which are interested in trade and commerce would be extremely indignant if we consulted them upon the penalties for the smuggling of arms. I am perfectly certain that if we consulted them in connection with these penalties, they would deny that a smuggling business like this had anything to do with the genuine trade and commerce of the country.

The motion of Mr. P. Banerji was put and lost.

The following motion was called but not moved:—

Mr. P. BANERJI to move, by way of amendment, that the Bill be referred to a Select Committee consisting of—

(1) the Hon'ble Member in charge of the Political Department,

(2) Mr. R. N. Reid, C.I.E.,

(3) Khan Bahadur Maulvi Azizul Haque,

(4) Khan Bahadur Muhammad Abdul Momin,

(5) Babu Jitendralal Bannerjee,

(6) Babu Jatindra Nath Basu,

(7) Mr. W. H. Thompson,

(8) Mr. Shanti Shekhareswar Ray,

(9) Maulvi Abul Kasem,

(10) Munindra Deb Rai Mahasai,

(11) Dr. Amulya Ratan Ghose,

(12) Mr. Ananda Mohan Poddar,

(13) Babu Amulyadhan Ray,

(14) Rai Keshab Chandra Banerji Bahadur,

(15) Mr. B. C. Chatterjee, and

(16) Mr. N. K. Basu,

with instruction to submit their report as soon as possible and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Mr. PRESIDENT: The question is that the Bengal Criminal Law (Arms and Explosives) Bill, 1932, be taken into consideration.

The motion was put and agreed to.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was put and agreed to.

3-30 p.m.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, I beg to move that in clause 3, in proposed section 19A, in line 3, the words, brackets and letter "or clause *(f)*" be omitted.

Sir, while fully recognising the responsibility that lies on the shoulders of the Government for the maintenance of law and order, I cannot refrain from entering my protest against this truly Draconian piece of legislation.

The provisions seek to alter the Government of India Act XI of 1878 in the matter of sentences for certain offences but does not create any new offence. It seems it has now been found by the Government of Bengal that the sentences provided in the original Act are quite inadequate.

Two things are noticeable in the Bill: firstly, the alteration is not to be temporary but is to be permanent, although presumably the special emergency which has called for this piece of legislation is bound to disappear or pass away as all emergencies are. Secondly, the sentences now proposed are the maximum provided for any offence under the Penal Code except the offence of murder.

Both the above factors must determine our attitude towards the provisions.

Any permanent enactment must be of such a nature as not to be an evil in normal times, because this must cover both the normal and abnormal times.

The Indian Arms Act was passed in 1878 when the country was presumably in a much more disturbed state, *i.e.*, when the agencies of detection were not so perfect as now and when society required greater protection. The policy then laid down was to punish these and some other offences with the same punishment, namely, three years' imprisonment or fine, and the aggravated forms of these very offences, with seven years' imprisonment or fine. It was then thought sufficient to meet all emergencies. All abnormal conditions also were taken into consideration as the minimum and maximum limits were provided and the gap between them was very great.

Now it is sought to take out three items from section 19, *i.e.*, c, e, f, from the company of other items and make them the greatest forms of offences under all circumstances, the distinction between sections 19 and 20 being levelled so far as these offences are concerned.

The one effect of the change is to make a simple possession of arms, say, the butt end of an old muzzle-loading gun or a firearm, out of action altogether, a greater and more heinous offence than the manufacture or selling of guns and military stores. Law is said to be common sense. But here that element is missing.

The other effect of the change is to make the offence of possessing a firearm, say, the muzzle of a gun, rusty and worn out, an offence as great as man-slaughter or culpable homicide not amounting to murder. Here again the element of common sense is wanting, not to say that it will shock any lawyer's legal conscience.

It will be said, as it has been said in the Objects and Reasons, that they are meant to provide as a deterrent for the terrorists. My reply is that so far as clauses 3 and 4 are concerned, they are quite wide to include all classes of offenders and are not confined to terrorists or terrorism. People were committing these offences before terrorism came on the land and before the passing of the Act of 1878 and they will continue to do so even after political terrorism has become a thing of the past. These offences are not the creation of the terrorists or terrorism, so as to confine the operation of the law within that clause for whom frankly we hold no brief. So this is an untenable ground again for such a drastic change in the law.

The question of the adequacy of the sentence is a pertinent one and has been raised in the Statement of Objects and Reasons. Here again the question resolves into two: (*1*) whether it has failed of its object so far as non-terrorists, and (*2*) so far as terrorists are concerned. As regards the former it needs no answer, since admittedly the provision worked well since 1878. As regards the latter class, it becomes part of the question—a general question—whether heavy sentences by themselves are sufficient to stop crimes.

If we go outside this country and take a view of the trend of legislation elsewhere, we find that there is a movement in favour of abandoning the severer sentences and a wide recognition of the fact that crimes cannot be stopped by vindictive sentences which rather create crimes than stop them.

Sir, I may be permitted to say what a famous author said—"It the truth, the platitude—what Emerson called the blazing ubiquity—the fact that punishment has always created crime, needs proof, it cannot need more full and perfect proof than the penal colony in Australia affords. Australia lacked no sort of punishment. She lacked no circumstances which might have given any form of punishment efficiently. She had in fact every form of punishment put together which England had ever devised. She had stocks, pillories, gags, bridles, houses of correction, prisons, solitary confinement, crank mills, pepper factories, mines, fines, remands, securities, thousands of lashes with whips. She had forced labour unchained, she had chain gangs, she had road gangs, she had daily hangings by dozens, and the result was exactly what should have been expected—the more punishment the more crime." The commission of 1839 said: "In order to give an idea of the amount of crime in New South Wales, let it be supposed that the 17 thousand offenders who were tried in this country—that is of course England had all of them been condemned for capital crimes, that seven thousand of them had been executed and the remainder transported for life. Then, in respect to their respective population in England and her Australian Colonies, it would have been precisely the same."

England, I believe, made the experiment in humane sentences earlier than most other European countries and with success. Even so late as 1810 so trivial an offence as stealing privately in a shop was punishable with death. You can imagine the number of offences in which death penalty was provided from this even in the beginning of the last century. When it was proposed to abolish the death sentence for the aforesaid crime, Lord Ellenborough, a distinguished English Judge, exclaimed: "My Lord, if we suffer the Bill to pass, we shall not know where we stand, we shall not know whether we are on our heads or on our feet."

I am reluctant to class the Hon'ble Home Member with the noble Lord, because the Hon'ble Member is the product of a much later date when England had already abandoned the death and the transportation sentences and had demonstrated to the world that her crime figures fell with more lenient and humane sentences being substituted for the severer ones. If she compares to-day so favourably with America, it is largely due to her human outlook towards the criminals.

Severe sentences, therefore, can never be the sovereign remedy for such crimes; it can create miseries all round and prevent the only door

to correction by removing family influence and family considerations for a long period. When you are transporting a married young man for life or for 14 years, for the matter of that, for a comparatively minor offence, you are heaping miseries on the creatures left behind and closing the door to his correction which lies in his early return to the bosom of his family probably with regrets in his heart for his past deeds.

When I am pleading, Sir, for humane and reasonable sentences, I must not be understood as having the least sympathy with law-breakers of any kind, but I do so, so that the object of the law may be fulfilled with the least possible human suffering as the object may not defeat itself by overshooting the mark. Sir, one great English Judge said not very long ago that of the cases in which he let out offenders on probation he knew very few cases of return to crime, whereas in the cases of conviction and sentences there were many. It is for the Hon'ble Member seeking to change the law in this respect to say whether there have been so many cases of repetition of offences under the proposed sections and sub-sections of the Arms Act, after conviction, as to justify an alteration of the law in favour of enhanced sentences to the extent proposed. I have proposed to drop 19(*f*) from the purview of clause 3, because I find it very difficult to reconcile myself to this change in the law consistently with a sense of justice and proportion.

I can understand that the importers and exporters of arms and those going out armed as being active agents deserve to be punished severely. But a man may be in control or possession of a firearm in a very technical sense, such as a person who is the owner of a house, who is in a legal sense in possession of everything found in the house. Supposing some boy belonging to the house or some stranger temporarily under the care of the owner leaves or deposits a firearm in some part of the house for concealing the same, this simple circumstance may launch the owner of the house to the risk of transportation for life. This is shocking even to contemplate.

Even taking the worst view of a case when a man collects arms to commit dacoity, the preparation or mental conception ought not to be punished as the commission itself. There is no system of law under which this is so. It ought not to be here also.

I would, therefore, ask the Hon'ble Member to accept the amendment with regard to 19F and to accept a reasonable limit of punishment as regards other offences covered by the Bill. I would ask him to take all circumstances into consideration. We have seen owners of houses in which arms have been found being punished, because legally they cannot escape punishment being the owners of the houses. But if in such crimes the punishment is transportation for life or 14 years' imprisonment, then I am afraid things will go very bad, because it is well known that in the early part of the last century when vindictive

punishments were in vogue, people did not care a tu'pence for the punishment inflicted on them. As a result crimes increased and it became a world question. It has been considered all the world over and I think that all over the civilized world at present there is a unanimity of opinion that punishment should not be more severe than just what is needed, and furthermore the victim should be given a chance for correction. The punishment should act as a corrective and should not be vindictive, and this is the main principle embodied in the British jurisprudence. Moreover, Sir, such severe punishment simply for the possession of a revolver or the muzzle of a gun—the offence may have been deliberately committed—will not serve as a corrective. When life is young, there is room for correction, but by inflicting such severe punishment you will be shutting out these young people for ever. I do not condone their offences—they ought to be dealt with according to law—but let them have a chance for correction, let it not be thought all over the country that you have no sense of justice or sense of proportion and that there is no humanity in you. With these words I would earnestly ask the Hon'ble Member to accept this reasonable amendment.

The Hon'ble Mr. W. D. R. PRENTICE: Do I understand that the member has moved only one amendment or all the three?

Babu SATISH CHANDRA RAY CHOWDHURY: I have moved only one amendment, namely, to delete clause (*f*).

The Hon'ble Mr. W. D. R. PRENTICE: May I ask at this stage whether in moving his other motions the hon'ble member would make another speech?

Mr. PRESIDENT: Satish Babu, would you make another speech or formally move your other two amendments on clause 3?

Babu SATISH CHANDRA RAY CHOWDHURY: No, Sir. I think my present speech is comprehensive enough to cover the other two amendments. So I formally beg to move the following motions:—

(*a*) That in clause 3, in proposed section 19A, in lines 6 and 7, the words "with transportation for life or any shorter term or" be omitted.

(*b*) That in clause 3, in proposed section 19A, in line 8, for the figures and word "14 years" the figure and word "5 years" be substituted.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, the mover of the amendment has made a fairly comprehensive attack on the provisions

of this Bill and I shall endeavour to deal with the various points which he has raised. The first point he has mentioned is that no limitation of period has been inserted in the Bill. But this objection really concerns clause 1 of the Bill which the Council has just passed, so that any question with regard to it would seem to be too late now. His next objection is to transportation as a punishment. But alternative punishments are prescribed in both clauses 3 and 4, and I do not think it is right to suppose that in every case the punishment would be transportation for life. But what I have felt throughout the whole of Mr. Ray Chowdhury's speech is the utter lack of reality. Does Mr. Satish Chandra Ray Chowdhury really think that we have brought in this Bill in order to send a man to transportation for life simply because he happens to have a rusty muzzle of a gun in his possession? Has he never heard of terrorism? Has he never heard of terrorists and their pistols and revolvers? Has he not read the Statement of Objects and Reasons of the Bill? Does he not remember that it is not the Government which is going to impose this penalty? All these cases will have to go to the courts, and will not these courts in each case award a punishment which is fair and reasonable within their estimation, and within the law? Then, again, there will also lie an appeal against their decision. It is not as if we are living a hundred years or so ago when even in England there was one and the same penalty for all sorts of offences. I think that is the difference which he has forgotten. He has forgotten that the difficulty in those days was that the only penalty for minor as well as major offences was death. But that is not the case in respect of the Bill now before the House. There are alternative penalities provided and one of them is a fine. I am perfectly certain that no member of this Council will accept Mr. Ray Chowdhury's view that this legislation is framed for the purpose of dealing with the kind of crime referred to by him. After all we are dealing with a serious menace in Bengal. We have had a series of murders committed with revolvers and automatic pistols, etc., and we have had guns and rifles used in the commission of such crimes. That is the situation we have to face, not the case of a rusty muzzle of a gun being found in the possession of a person. We have to deal with solid facts and not with the imaginary conditions, to which Mr. Ray Chowdhury has referred, and in view of these facts I would ask the Council to oppose these amendments.

Mr. Ray Chowdhury has referred in connection with clause (*f*) to the chance of an unfortunate householder within whose possession some firearms may be found, being liable to be transported for life. Surely he must know the sort of evidence that would be required before such a man could be convicted in a court. If the court found that what was found in his possession was only a rusty musket, does he think that there would be any chance of a court sending the man to

transportation for life, or even if the man was found guilty of something more serious, would the court give him no other punishment than transportation for life?

What have we got in clause (*f*) to which he has referred? There are three classes of people dealt with by this Bill—(*1*) the smuggler; (*2*) the gunman; and (*3*) the custodian of arms. What we find in connection with the terrorist conspiracies is these three classes of people. We have the people who make their money out of smuggling and many of the murders are committed as a result of this smuggling. Secondly, we have the gunmen, who use these revolvers and automatic pistols for the crimes that we all know about. Thirdly, there are the custodians of the unlicensed arms, in whose possession such weapons are kept until they are required for a fresh outrage. It is this last class of person who is dealt with in clause (*f*) and I submit that that class must be dealt with as severely as the other two classes, the smugglers and the gunmen, and that surely there is no reason for cutting out clause (*f*).

With regard to penalties, I admit that our penalties are severe, but I am not going to enter into a discussion of penology. I think Mr. S. C. Ray Chowdhury is entirely wrong when he says that deterrent punishment cannot have any effect on crime, and I would remind him the classic case of the use of the powers for flogging, which put a stop to garrotting. Recently too he might have read in the papers a remark by an English judge with regard to another class of offence that if this sort of crime goes on, he will have to impose much more severe punishments. When you remember that the whole object of this illegal traffic in arms is murder and nothing else, then you will realise the necessity for these severe penalties. We have provided alternative punishments, but people who embark on this kind of crime must realise that they run the risk of very severe punishment even of transportation.

The motions of Babu Satish Chandra Ray Chowdhury were then put and lost.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Clause 4.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was put and agreed to.

The following motions were called but not moved:—

Babu SATISH CHANDRA RAY CHOWDHURY to move that in clause 4, in the proposed proviso to section 20, in lines 4 and 5, the words "with transportation for life or any shorter term or" be omitted.

Babu SATISH CHANDRA RAY CHOWDHURY to move that in clause 4, in the proposed proviso to section 20, in line 6, for the figures and word "14 years" the figure and word "7 years" be substituted.

Clauses 5-7.

Mr. PRESIDENT: The question is that clauses 5, 6 and 7 stand part of the Bill.

The motion was put and agreed to.

Clause 8.

Mr. PRESIDENT: The question is that clause 8 stand part of the Bill.

Mr. C. C. HOOPER: I beg to move that in clause 8, line 5, the word "of" occurring for the first time be omitted. It is purely a formal amendment due to a clerical error.

The motion was put and agreed to.

Mr. PRESIDENT: The question is that clause 8, as amended, stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question is that the Preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the Bill, as settled in Council, be passed.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I am afraid I must oppose this Bill. It is indeed a distressful spectacle to find Government bringing in such a measure before this House. Sir, only yesterday morning I read a report of the speech delivered by Sir Charles Tegart in London. In the speech he said that the object of the terrorists was to paralyse the Government—to put fear into the heart of the Government. Sir, as I was listening to the speech of the

Hon'ble Member in charge of the Bill, I thought as if the terrorists had achieved their object. They have succeeded in terrorising Government into bringing such a measure before this House. I do not blame Government. Perhaps they need not have brought this measure before the House at all. They could simply have passed an ordinance and achieved the same purpose without the Council. Now that they have brought this measure before this House, Government have, at any rate, given us an opportunity to raise a voice of protest against such panicky measures to fight out the menace of terrorism in Bengal. I say that Government have been terrorised. As a matter of fact the Government have almost been paralysed, because the Hon'ble Mr. Prentice has stated that there are cases of smuggling of revolvers and such a measure is, therefore, necessary. It is indeed very interesting to find Government taking such an action on the very few cases that have been brought to their notice or about which any information has been published. Murders there have been and in large numbers all over the country. In this very province within the last three years there were murders during the riots in Calcutta and Dacca, but only knives were used at these riots and not revolvers. Government did not then care to take any measure to check that menace. They did not care to bring in a Bill to increase the punishment for taking part in riots—for killing people with knives; but here, because a few officers have been killed or attacks have been made on a few Europeans, Government have thought such a measure to be necessary.

4 p.m.

That action has not proceeded on calculated reason but out of panic, and pure panic. Sir, the other day in reply to a question in this House regarding the alarming increase in the number of rape cases in the province—and when Government were asked to take measures, to initiate measures for checking this evil—the Hon'ble Member in charge of the Political Department told us that Government did not contemplate taking any measure whatsoever. Hundreds of our women may be raped, but the conscience of Government will not be roused so as to take proper steps; hundreds of our men may be murdered in the streets, but Government will not stir a bit to take any action whatsoever. But because an outrage was committed at Pahartali and a raid was committed at Chittagong, Government ran amok. But what did happen at Kishoreganj? There, a whole family was butchered by a band of ruffians. Did the Government take any steps? Did the Government take any measures to put a stop to the repetition of such dastardly crimes? So, I say that it is not an increase in crime that has stirred the conscience of Government, but it is because Government officials—and the Government as a corporate body—have become thoroughly demoralised, as a result of action by a handful of men,

that they have considered it necessary to bring forward such a measure before this House for our sanction. Though Government have lost their head, I think it is my duty to oppose this Bill.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I would not deal in detail with the speech of Mr. Shanti Shekhareswar Ray. I think the general feeling of the Council is that a great deal of what he said should have been left unsaid. I should like only to press my motion that the Bill should be passed.

The motion of the Hon'ble Mr. W. D. R. Prentice that the Bill, as settled in Council, be passed was then put and agreed to.

The Calcutta Municipal (Second Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to introduce a Bill further to amend the Calcutta Municipal Act, 1923.

The motion was put and agreed to.

(The Secretary then read the short title of the Bill.)

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the said Bill be referred to a Select Committee consisting of—

(1) Maulvi Abul Kasem,
(2) Mr. A. Raheem, C.I.E.,
(3) Mr. H. S. Suhrawardy,
(4) Maulvi Muhammad Solaiman,
(5) Khan Bahadur Muhammad Abdul Momin,
(6) Mr. A. K. Fazl-ul Huq,
(7) Mr. W. H. Thompson,
(8) Babu Jatindra Nath Basu,
(9) Mr. Narendra Kumar Basu,
(10) Mr. B. C. Chatterjee,
(11) Mr. H. P. V. Townend,
(12) Mr. D. J. Cohen,
(13) Mr. Razaur Rahman Khan, and
(14) the mover,

with instruction to submit their report within three days from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

Sir, in moving this motion, I beg to submit that, while speaking on the motion of Maulvi Abul Kasem for leave to introduce his Bill to amend the Calcutta Municipal Act, I made it perfectly clear why Government were averse to any proposal for extending the system of separate electorate beyond the statutory period of nine years. Sir, in view of the compromise that was arrived at in 1923 between the representatives of the Muslim community in this Council and the Ministry of the late Sir Surendra Nath Banerjea, Government could not agree to any such proposal for extending the communal electorate. In consonance with that compromise, which was embodied in the Statute, the Muhammadans of Calcutta were given more seats than they were entitled to on the basis that was adopted for representation in the Calcutta Municipal Bill.

Sir, I have discussed this question of representation of the Muslims in the Calcutta Corporation with the members of the Muhammadan party in this House and have tried to impress upon them the view point of Government. I have also tried to explain to them why it was not possible for Government to support any of the Bills that were placed before the House last week.

Sir, as the House has now accepted the principle of joint electorate with reservation of seats for the minority communities in connection with the Bengal Municipal Act, I hope that there would be no objection to the same principle being introduced in the Calcutta Municipal Act. The Muhammadan community in Calcutta, on account of the strength of their population and political importance, are justly entitled to a fair representation on the Corporation, and, I submit, Sir, that if my Bill is accepted by the House, it would bring up the number of Muslim representatives in the Corporation in proportion to their population.

Sir, I hope that in view of what I have stated, all sections of the House—Hindus, Muhammadans and Europeans—will give their unanimous support to this Bill. In doing so, they will not only honour the compromise that was arrived at by the representatives of the Muhammadan, Hindu and European communities with Government in 1923, but would also respect the memory of our departed leader, the late Sir Surendra Nath Banerjea.

With these few words, Sir, I would appeal to all sections of the House to give their unanimous support to my Bill.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Sir, the question that has been placed before the House has really roused a lot of sensation in Calcutta. The Hon'ble Minister, in introducing the Bill, wants to tell the Calcutta people that joint electorate is for the good of the

people, that it has been accepted in the case of *mufassal* local bodies, and that, therefore, you should also accept it and give your unstinted support to it. But, Sir, the Calcutta Muslims feel strongly that the introduction of the system of joint electorate in the Calcutta Corporation will practically disenfranchise the entire body of Muslim voters of Calcutta. I shall explain, Sir, how the Muslims of Calcutta will become losers. Sir, it is common knowledge that in all the wards of the Calcutta Corporation, the Muslims have not got more than 25 per cent. of voters. Supposing that a ward with 25 per cent. Muslim voters is asked to elect two Hindus and one Mussalman, the 75 per cent. of the Hindus there will be able to elect all the three candidates of their choice and ignore the Muslim voters altogether. Let us now take a ward where the number of Muslims is even less than 25 per cent. In a ward where their number is, say, just 10 per cent., what will be the position of these 10 per cent. of voters? Suppose, you are asked to elect, say, again three representatives, two Hindus and one Mussalman. Will anybody care to go to these 10 per cent. Muslim voters? The 90 per cent. Hindu voters will be able to elect all the three members of their choice to the Calcutta Corporation. Is it right, Sir, that these 10 per cent. or 25 per cent. of the Mussalman voters should thus be disenfranchised by any action of this House? The Hon'ble Minister has referred us to the hallowed name of our late venerable leader, Sir Surendra Nath Banerjea, and to his compromise, and has told us that in honour of his memory at least, if not for anything else, we should not now oppose his proposal, or raise any voice of dissent against this Bill. But, may I ask him that he himself does not consider the compromise or the Act itself to be a sacred thing? Sir, the sanctity of the Bill has been violated by the Hon'ble Minister himself by his bringing forward a motion for amending the Bill. So, Sir, when he says that out of respect to the memory of the late Sir Surendra Nath, the country should not try to change the Act, I must say that his own conduct is——

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: May I rise on a point of personal explanation, Sir? I repudiate the insinuation of the Nawab Saheb that I am resiling from the compromise arrived at in 1923. In fact, I stand by it, Sir.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: But, Sir, I have a right to say that he is perpetrating a great wrong to the Mussalmans of Calcutta. I should like to remind you, Sir, that here I am speaking as a member of this Council and not as a Mussalman. Here, I want to see that every section of the population gets his due rights and that those rights are respected in this House. I shall be the last person to say that any section of the community, or any community itself,

should be deprived of any privilege or of any right that it is already enjoying. This is all that I wish to say, so far as my point of view is concerned. I have told this House times without number that moral principles have actually disappeared from us——

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. Is the member in order in saying that all the members of this House are immoral? (Laughter.)

Nawab MUSHARRUF HOSAIN, Khan Bahadur: Really speaking I would say that every one among us has forgotten the principles of honesty and fair play.

(At 4-15 p.m. the Council was adjourned for prayer and it reassembled at 4-30 p.m.)

I want to say that every powerful man in the world wants to exercise his power against others. That is what I wanted to prove in the beginning of my speech. If you get any power, you generally see if by that power you can snatch away something from others. So this Government has now got power to do a lot of things and it is rather taking away the right of Mussalmans to send their representatives to the Council. I will try to show how the Mussalmans will be practically disfranchised if nothing is done now by Government to restore separate electorate for Mussalmans of Calcutta. I would appeal to the Hon'ble Minister and the Government even now to consider the case of the poor Mussalmans of Calcutta and to bring in another Bill for restoring the separate electorate to them here. When I say so——

Mr. P. N. CUHA: On a point of order. The question of separate electorate is not before us now; that question is quite different from the present one which is only for giving four seats to Moslems.

Nawab MUSHARRUF HOSAIN, Khan Bahadur: I sincerely appeal to the Government Bench and to the Hon'ble Minister, who is a moderate Hindu, not to do away with separate electorate. I know if these Moslems are disfranchised only the Congress Moslems will be able to come into the Corporation in future and the moderate Hindus in that case will have absolutely no chance of getting control of the Calcutta Corporation because the Hindus will send, really speaking, at least three-fourths of the Congress Hindus. All the Mussalmans will also come under the Congress ticket in future. Then the combination of these two will mean complete control of the Calcutta Corporation by the Congress. I say this will be against the wishes of the European community, the moderate Hindus and the moderate Mussalmans. So I appeal to the House to join with us in requesting the Government to help the Calcutta Moslems in getting what they want.

Mr. H. S. SUHRAWARDY: I desire to make our position clear. We feel considerably aggrieved at the manner in which the Bills of Maulvi Abul Kasem and Mr. A Raheem were received by this House. I wish it to be known clearly that the Mussalmans of Calcutta are keen on the retention of separate electorate and they can never willingly subscribe to the principle of joint electorate. I can advance many arguments to show that separate electorate is not advisable for Calcutta in the present circumstances, but I am constrained to recognise that the question of electorate is not in issue in the present Bill. We do not oppose its reference to a Select Committee, but we reserve to ourselves the right of taking any action in future, if necessary.

Maulvi ABUL KASEM: Although I do not oppose reference of this Bill to Select Committee for consideration, I think I owe it to myself and to the people on whose behalf I introduced a Bill, which was lost, to make a personal explanation. As has been pointed out by Mr. Suhrawardy, who represents the Moslem citizens of Calcutta in this House, and his colleague Mr. A. Raheem who represents the other half, Moslem opinion is very emphatic in demanding separate electorate and the case has been ably put by Mr. Suhrawardy; so I need not say much on that point. The only thing I have to say is that I am grateful to the Hon'ble Minister for his generous offer. But I am sorry to say that I consider it of doubtful advantage to the Mussalman community. The question is not how many Moslems are there, because they will always be in a minority. The question is that if a small minority can solidly express the opinion of a particular community that has a very great effect on the whole House as in the case of Europeans in this House, although they are in a hopeless minority, their voice carries great weight, because they speak like one man on a particular question and we have to consider that this is definitely the European opinion. But if the Europeans were given certain reserve seats in this House to be chosen and elected by general electorate, then I am afraid they would lose that advantage and privilege. If the Europeans will agree to joint electorate, some of my friends may invite Mr. Horniman to come over from Bombay and get elected with a Congress ticket. Then there will be a division in the European group.

But that is a different matter. As Mr. Suhrawardy has said, it is not a question which is before the House.

I think this Bill with a little modification may be of some advantage, but the thing I want to impress upon the House is that what the Moslems of Calcutta and, I believe, the Moslems of Bengal want is that the Moslem representatives should speak out their own mind and the mind of the community to which they belong and not give expression to the voice which may be called their master's voice.

4-45 p.m.

Mr. A. RAHEEM: Sir, as representative of the Moslem citizens of Calcutta, I should have opposed the Bill at this stage, but I do not desire to do so especially when the Bill is being referred to a Select Committee, but I hope the Hon'ble Minister will not mind my saying this, which I wish to say simply to clear the position, that the fact that we are not opposing the reference of the Bill to a Select Committee should not be taken to mean that we accept the principle of joint electorate.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I am very much bewildered to find that one after another the previous Muhammadan speakers have all spoken against the Bill. If that is the attitude of the Muhammadan members of this Council, then what is the use of going on with the Bill? Sir, the city of Calcutta is going to have a general election in March next. So, if anything is to be done with regard to this matter, it is good time now that this should be settled once for all. Messrs. Abul Kasem and Abdur Raheem both brought forward Bills to continue the separate electorate. I can understand their solicitude for continuing separate electorate, but the Hon'ble Minister told us that behind the Council and elsewhere an honourable compromise had been arrived at between the different conflicting interests and the Bill had been the outcome of a spirit of compromise between the two communities. We were satisfied at this result, but I am absolutely bewildered, as I have already said, to find that, instead of any evidence of compromise, all the evidence that we have is that Messrs. Raheem and Kasem, who were the movers of the original Bills, are not satisfied; Mr. Suhrawardy, the worthy representative of the Muhammadan community of Calcutta, is not satisfied; Nawab Musharruf Hossain for other reasons is not satisfied with the Bill. May I then ask my friend, Mr. Bijoy Prosad Singh Roy, what justification has he to say that this Bill satisfies all parties and it ought to be passed without any discussion or difference of opinion? If it is to be understood that on the floor of this House in another two months' or six months' time the question of separate or joint electorate for the Moslem and Hindu citizens of Calcutta has to be threshed out again, then let us now thresh it out once for all. What is the use of keeping the thing hanging for the time being and then revising it again afterwards? Sir, I happen to know something of the constitution of the Calcutta Corporation and I remember how the distribution of seats came to be made. Originally the voting capacity, the rating capacity and population were taken into consideration. The Hindus and Muhammadans were divided under these headings. I remember too well, although I am speaking from memory, that taking these criteria into consideration,

the Muhammadans could get only 13 seats. But the late Sir Surendra Nath Banerjea induced us to agree to more seats being given to the Muhammadans in order to bring about peace. Sir, we have heard discussions in this Hall that the two communities ought to live as brethren in this country which is the birthplace of us all, that we Hindus ought to make allowances for Muhammadans, as far as practicable and possible, and that the Muhammadans are also expected to do the same. Now, let us see if the Hindus have been found wanting so far as Calcutta is concerned. It is a well-known fact, and this cannot be gainsaid, that the Muhammadan population in Calcutta do not exceed 25 per cent. of the total population. Then what is the reason that the Muhammadans should clamour for more seats than they are entitled to? This is on the population basis. Now what about the rating and voting capacities? It is a reasonable dictum that those who pay the piper must call for the tune. I admit that this principle will not appeal to my friends, because they are stronger in number. On numerical basis the Hindus will be nowhere so far as Bengal is concerned, but that is not the case in Calcutta, where the Muhammadans can claim only 25 per cent. of the total population. I do not suggest that the Muhammadans have no claim. As Lucknow is a Moslem city, I would call Calcutta a Hindu city. I do not understand why in Calcutta the Muhammadans should forget this. Well, Sir, somebody has said that unless you have a strong minority you cannot do anything. Now, Sir, in the Calcutta Corporation, there are altogether 85 councillors of whom 15 are elected Muhammadans and there are also one or two nominated Muhammadan members. I admit the number is small, but I say that they have been very advantageously situated in Calcutta. If they act in concert, they can do wonderful things. The Hindus are divided into two groups and whichever side the Muhammadans join, they will carry things. Whenever there has been a division in the Muhammadan camp, they have gone to the wall. Whenever they have combined, they have found the Corporation at their feet, because the Hindus, whether of the Congress or non-Congress group, are divided. Over and above this the Hon'ble Minister has very generously offered four extra seats and I think my friends ought to be satisfied with this, and they ought not to forget that after all joint electorate is the ideal thing. In ten years we have learnt many good things and in another ten years' time we will make much more progress and the quarrel now existing will not be there then. I appeal to my Muhammadan friends—some of them are my closest friends—I sympathise with them, but at the same time I would ask that they should not be unreasonable. The Hon'ble Minister has suggested a very reasonable compromise which ought to satisfy them. Then, Sir, there is another thing. I would ask my friends who are opposing the Bill as to what will happen a result of their opposition. If they go to the "No" lobby, we shall also follow them, and in spite of the best wishes of the Government, the Bill will be thrown out. In

the Corporation they have at present 15 seats and that number will remain for how long we do not know. Now, Sir, what is politics? Politics must be based on reasonable calculation and I think my friends will be well-advised in accepting this reasonable compromise.

Mr. P. N. GUHA: Mr. President, Sir, I want to speak only on one point. My friend Nawab Musharruf Hosain has said a few minutes ago that if the Mussalmans were elected to the Calcutta Corporation by the joint votes of the Hindus and Mussalmans, then only such Mussalmans as were Congress men or were under the thumb of the Congress men would be elected. I can assure the House that this is not the correct reading of the situation. The system of separate electorate has been in existence in the Corporation of Calcutta for the last nine years and as a councillor of that body for the last six years I had ample opportunities of watching the course of events.

The Moslem councillors elected by their co-religionists, probably with the exception of one, have almost always sided with the Congress men and it was with the help of the Moslem councillors elected under the system of separate electorate that the Congress men succeeded in bossing the whole show of the Corporation during these years. I challenge any one to contradict me. It was on one occasion only that the non-Congress men succeeded in having an upper hand in the Corporation with the help of the Moslem councillors and on that occasion only, a non-Congress man was elected Mayor in these nine years' time.

The table was, however, turned in the following year when my friend, Dr. Haridhan Dutt, was a candidate for the Mayoralty. We sought the help and co-operation of the Moslem councillors to retain the position, but we did not get them. They kept us waiting till 8 p.m. of the day previous to the day of the Mayoral election and at the last moment we were informed that the Moslems had decided to join hands with the Congress men. Mr. Razak, who secured the Chair of the Deputy Mayor with the help of the Congress men, openly declared that his co-religionists meant to work hand in hand with the Congress men in the Corporation. It will, therefore, be realised that the theory of my friend Nawab Musharruf Hosain is not tenable. I do not know what the position will be in future, but from past experience no one can be justified in holding the view that joint electorate will send up Moslem Congress men to the Corporation, but separate electorate will not.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I would say only one word with regard to the observations made by Nawab Musharruf Hosain. I understood him to say that to introduce joint electorate for the election of Muhammadans would amount to disfranchising the

Muhammadans. If that is so, then we have to put a somewhat different meaning upon the word disfranchisement from what we have hitherto known. If that is the feeling of my friends, then with what face did they agree to the same disfranchisement when the Bengal Municipal Bill was under consideration? Are we to understand that in doing that they sacrificed the Muhammadan interest in the *mufassal*? I do not think so. It has been suggested that the position in Calcutta is different. Well, I do not know and I do not think that my friends will be able to make that out. The conditions in *mufassal* as well as here are just the same so far as the Congress is concerned. However, Sir, the question is whether after nine years of trial of the system of separate electorate, which according to Mr. Guha has not led to any better results, it is not worth while trying the other principle which was agreed to solemnly by all members of the Council when the Calcutta Municipal Bill was passed. It is said that if this is agreed to now it will be thrown away as a scrap of paper. Well, I will not question the right of the future legislature to do so, but it is just possible that if this system proves on the whole to be beneficial, then even my friends who are so strongly against it will not come forward to alter it; if they find it going against their interest, they are of course entitled to ask for a change. But why should we not give a fair trail to the system now proposed? That is the fairest compromise possible that can be made, and I hope that my friends who are so willing to come to a settlement with the Hindus will rise to the height of the occasion and agree to the compromise.

5 p.m.

Maulvi ABDUS SAMAD: I am really surprised, Sir, at the attitude displayed by some of the Muhammadan members of this Council. I know there are some Muhammadans to whom the words "joint electorate" are like a red rag to a bull. I can assure my Hindu friends that so far as this Bill is concerned, the majority of the Moslem members are in favour of the terms which are so fair and reasonable and we should be thankful to the Hon'ble Minister for introducing it. I do not think there is any Muhammadan who having the good of his community at heart can support separate electorate for the Calcutta Corporation, where the Muhammadans form a hopeless minority. Through separate electorate the Muhammadans of Calcutta get only 15 seats in a House numbering 90; so they cannot have any influence whatsoever upon the majority community; and their position is hopeless; so what is the harm in accepting joint electorate when the community is getting 19 seats in place of 18? These Moslem members accepted joint electorate with reservation of seats for the Bengal municipalities; but why did they do that? Because they know that a minority coming through a separate electorate has no

place in a local self-governing body, and so in order to safeguard the interests of the Muhammadan community, they accepted joint electorate with reservation of seats in the case of the Bengal Municipal Act for election to municipalities in Bengal, where they are everywhere in a minority. Sir, what is sauce for the gander must be sauce for the goose also, and I cannot understand why a system which is good for the *mufassal* towns should be otherwise in the case of the Corporation of Calcutta. Before concluding I would specially refer to the attitude of Mr. Suhrawardy who, I understand, was a candidate for election to the Calcutta Corporation but was badly defeated by a man who was not fit to tie the latchet of his shoes!

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, we are sometimes amused by speeches when a member brings in "gander and the goose" and "the bull and the rag," before this House. What is sometimes more instructive is a speech from Rai Bahadur Dr. Haridhan Dutt, who, according to my friend, missed his mayoralty by a narrow margin. Unfortunately our attitude is more misunderstood than properly understood. I think it will be within the remembrance of this House that it was the Muhammadan members of this House who voted for joint electorate with reservation of seats for the Bengal municipalities, and I think my friends who have criticised the Muhammadan members ought to pause ten times before they criticise them for taking another attitude which may be justified by the difference of circumstances. I think, Sir, that it is sometimes forgotten, although nevertheless it is a fact, that after all we are the representatives of the people, and if the people do not want a measure, it does not lie with us to force a measure through this House in the teeth of opposition of our electorate. I remember, Sir, when Mr. Jinnah was discussing this matter with the Congress at an 'all-parties' conference, he said, "not Mr. Jinnah, but millions of Muhammadans who have to be carried with him." After all, Sir, we might pass a measure for joint electorate, but we have to look to what the Muhammadan community wants, and unless we know that a measure has their approval, it is no use carrying it in the teeth of that fact. I might explain at once that the Muhammadans of Calcutta, in spite of the fact that there are some of us who rightly or wrongly would adopt the principle of mixed electorate—the Muhammadans of Calcutta do not want a mixed electorate. There is a volume of public opinion which favours separate electorate. That being so, and that being perfectly known to us, we, in spite of our personal view on the matter, have no other option but to vote for separate electorate. That perfectly explains our attitude and I hope that after this explanation the criticisms that are off and on made against us on this subject should disappear. We are judges of the circumstances, and we have got to

know the volume and extent of the Moslem public opinion in this matter and we have seen that in a measure like this the Muhammadans of Calcutta are convinced that separate electorate should be retained. Mr. P. N. Guha has referred to the working of the Corporation of Calcutta for the last eight years. The whole of the people of Calcutta were running amok to work the Calcutta Corporation and the Muhammadans 10 or 12 in number had to take stock of the situation and decide one way or the other. But that does not justify the introduction of the new principle of joint electorate. I hope, Sir, this will make clear to the House why, even though we ourselves may have voted for mixed electorate in another connection, we cannot do so in the present case. We have to take note of public opinion in Calcutta and we feel that we are not justified in lending our full support to the measure proposed by the Hon'ble Minister.

Babu JATINDRA NATH BASU: I regret the turn the debate on this measure has taken. The Bill is intended to regulate the administration of the civic affairs of this city in a particular respect. Sir, with the progress of the times we all expect that the civic spirit will also grow. So far as the interests of citizens are concerned, they are the same irrespective of class or creed. Sir, in the not very old days of the Calcutta Corporation there were Muhammadan members like Nawab Badiruddin Hyder and Dr. Zahiruddin Ahmed who commanded positions of great influence by the civic spirit that they displayed, and the work they did for their fellow-citizens, irrespective of class or creed. It is by his work for the city that a citizen should fit himself for being a representative on a civic body. That is a thing, Sir, which everybody recognizes, including my Muhammadan friends. The profession of a particular creed does not necessarily endow a person with qualifications for looking after the interests of his fellow-citizens. What are those interests after all? Pure water, clean and good roads, efficient sewers, and so forth. The city of Calcutta is so inhabited that different communities live with each other side by side. In the *bustees* you will find poor Hindus living side by side with poor Muhammadans and the interests of all of them are just the same, and the man who looks after them and cares for them, is the man who should go to the Corporation, irrespective of the creed which he professes. The right civic spirit is different from questions of political status or power. Such status and power have reference to the constitution of a legislature. But in this case, only the conduct of the affairs of a city and the looking after its needs are involved as I have already stated. In such matters my Muhammadan colleagues should show a true civic spirit, as they have done in the past, by agreeing that in Calcutta also, as in the municipalities outside Calcutta, there should be joint electorate, so that the ratepayers may elect only such persons

as they thought are fit to look after their everyday interests." Sir, we all admit, my Muhammadan friends also admit that as much as anybody else, that separate electorates are not the right sort of thing for a municipal constitution. I have listened to the arguments that have been advanced so far about the continuation of separate electorates in the municipal constitution of Calcutta. But I have not heard one argument advanced which shows the necessity for such separate electorates. The only argument attempted to be put forward is that the Muhammadans of Calcutta want separate electorate, No doubt a feeling like that is entitled to great consideration and respect. But I humbly put it to those that have urged that contention,—are there organisations in the wards (there are 32 wards in which the city is divided) to look after the interests of the wards, and have the Muhammadan citizens in the wards come forward to say that they do not want joint electorates but separate electorates? Are there any organisations who have urged that view? Where are the organisations and where is the organised expression of opinion behind all this? Nowhere. It may be that a few leading gentlemen want that there should be separate electorates and they have urged that view; but to say that the entire body of Muhammadan citizens of Calcutta is of one opinion that there should be separate electorates and not joint electorates in contravention of the compromise entered into in 1923 is, I beg to submit, not substantiated by facts. The ordinary citizens—I mean those that live in small habitations all over the city—they have not been consulted. They pay their rates and they want that their locality should be looked after properly. They want water-supply—plentiful water-supply—especially in a tropical country like ours, and such other amenities. But where is the expression of opinion to which I have referred? We look in vain for that opinion in the papers and public meetings. It is only very recently that we have come to know that there is an expression of such opinion, but I do not think that expression of opinion is real or vocal. In view of that fact I do not think that any case has been made out for separate electorates as has been advocated by some here. No opinion has been expressed by the general body of Mussalmans; on the other hand, the opinion stated here has been given expression to by a few gentlemen who undoubtedly have good reasons for urging that view. But so far as the general body of the electorate is concerned, they are nowhere in the scene at all, and there is no justification for their names being put forward as supporters of the scheme for separate electorates, that is now being urged by some.

A beginning has to be made of joint work. With separate electorates in the Corporation as also elsewhere, I regret to say that whenever any question comes up, the question of separate interests is started. To whichever community or class we may belong, from the civic point of view there is absolutely no difference in civic interests between the different communities. The effect of civic work is the same on all.

5-15 p.m.

But the contention is urged that there should be separate electorate. Sir, everyone of us here desires that there should be joint work in all spheres of public life: this is especially true in civic work, as all of us want to make this city worthy of its great position as the first city in Asia. All of us desire that the best workers should be in the Corporation, to concentrate their attention, devote their energies, and apply their time to the service of this city, irrespective of caste, creed and colour. This is necessary in order that this great city may justify its reputation.

If we stick to the idea of having separate electorates, that idea will dominate the mind of the people even in the sphere of civic life, so that time which should be utilised for useful work for the citizens is wasted in mutual recriminations and in the seeking of petty seeming privileges.

Sir, with due respect let me make an appeal to my friends, "Let us all put our shoulders to the wheel and grapple with the work ahead of us, let us sink our differences, and go on as we ought to." And I am quite sure that if we were to follow this principle, all differences would disappear in no time. To my mind, the best policy is to try to obliterate our differences, which in fact are not essential, and not to try to emphasise things which tend to keep us apart.

Mr. B. C. CHATTERJEE: Sir, I would ask my Muhammadan friends to remember one thing. They must know that this cry for separate electorate is rooted in absolute unreality, and I shall show you how. Supposing, Sir, a boy becomes ill in a Muhammadan gentleman's house, and a doctor is wanted; in that case, surely the gentleman will not be communal in his choice of a doctor. If he wanted the best treatment, he would go to the best doctor of the city, no matter whether he was a Hindu or a Muhammadan; and if a Hindu doctor happened to be superior to a Muhammadan doctor, I think, no doubt, he would go to the Hindu doctor.

Similarly, Sir, if a Muhammadan litigant has a case in the High Court, and if he wants the very best legal advice, will he say that he wants a Muhammadan lawyer? Or, will he not turn to such eminent lawyers as the late Sir Rash Behary Ghosh? Will he, Sir, boycott the best lawyer because he happens to be a Hindu?

Take also the case of an engineer, Sir. You want a bridge to be constructed or a house built, and you want an engineer's advice. Will the prospective Muhammadan owner of a house say: "I must go to a Muhammadan engineer, and if I cannot get the services of a Muhammadan engineer, I shall not build the house?"

In your normal private life, you are absolutely non-communal. When you try to be non-communal in the matter of seeking a doctor, a lawyer, an engineer, or a technical expert, how can you possibly say that it will be for the good of the nation to have separate communal electorates in the political sphere? What is not true in private life cannot be true in public life. We must remember that criterion. If you are going to have representative Government, then you must have the very best men available for your "National" Council. How can you possibly say that although I am non-communal in my private life, yet I shall be doing no harm to my motherland if I am communal in my public life? That idea is absolutely fallacious, Sir, why cannot our friends realise the simple fact that the work of managing a Government is far more difficult, intricate, and delicate than that of managing one's private household affairs, and that you consequently want for that work the greatest men of the nation. We Hindus thoroughly appreciate the principle. We do not want separate electorates in any walk of our public life, whether in the local bodies, in the municipalities, or in this Council; we want joint representation, because it is then and then only that you give the whole country its right and its chance to choose the best candidates, whether they be Hindus or Muhammadans or of any other denomination. We hope that our Muhammadan countrymen will fully appreciate the stark unreality into which they are betraying themselves when they insist on separate electorates. Sir, to accommodate our Muhammadan friends, to meet their prejudices, we are prepared to have joint electorates with reservation of seats; but we want to have joint electorate because then, and then only, is there some guarantee that a man who will be chosen by the Hindus and the Muhammadans together will be more representative, more national, and more likely to articulate the common aspirations of Hindus and Muhammadans alike, than a man who is chosen by the Hindus on the ground that he is a Hindu or by Muhammadans on the mere ground that he is a Muhammadan. Sir, according to us, Hindus, the best thing is to have joint electorate without any reservation, and the second best is to have joint electorate with reservation of seats. My Moslem friends ought to be convicted of the sincerity of our political faith, of our belief in the soundness of joint electorate, in the light of our avowed willingness to have joint electorate for the whole of Bengal on the basis of adult franchise, which could only result in the translation of overwhelming political power into their hands.

I again ask, Sir, why should our Moslem friends be non-communal in private affairs and be communal in public affairs?

Maulvi TAMIZUDDIN KHAN: Are we always communal in public life?

Mr. B. C. CHATTERJEE: You recently accepted the principle of joint electorate with reservation of seats in connection with the Bengal Municipal Bill. That was the first measure in recent times wherein we, Hindus and Muhammadans, sank our differences and passed a piece of legislation which is national and non-sectarian. I appeal to you, gentlemen, to forget communalism (A VOICE: You must address the Chair), and not insist on communal representation. As regards my friend, Mr. Suhrawardy, whose case has just been mentioned by Mr. Samad, he could never have been beaten if men like me and Mr. Singh Roy had had the chance of voting for him. Sir, here is an occular demonstration of what happened in Calcutta on the basis of communal electorate. It is no use taking so much of your time, but I am quite sure that my Muhammadan friends would soon realise that this communal strife is not worthy of any people who want nationalism, who want national prosperity, who want to see Bengal develop and prosper as a whole, instead of being torn by internecine quarrels and fissiparous tendencies. I do appeal to you, that you will not on this occasion betray national interests by insisting on the claims which Mr. Suhrawardy and some others have put forward.

Reverend B. A. NAG: Sir, I move that the question be now put.

(At 5-25 p.m. the Council was adjourned for prayer and it reassembled at 5-35 p.m.)

Mr. D. J. COHEN: Sir, I submit that the question be now put.

Mr. NARENDRA KUMAR BASU: Sir, I wish to say only a few words after all that we have heard this afternoon. I shall refer to one thing, Sir, and that is this. I do not see how the question of separate or joint electorate could come within the scope of this Bill. I submit, Sir, that for the last half an hour I have been listening to the speeches with a sense of unreality and of amazement.

Mr. PRESIDENT: I should like to explain to the House why I have permitted the debate to slightly drift from the regular course. It is out of fairness to the Moslem group who were appealed to by the Hon'ble Minister quite recently to withdraw their own Bills in consideration of this amended Bill. Those two Bills, as you will remember, proposed to deal with separate electorate. So, I thought that it would be fair on my part to allow them some latitude so far as this point is concerned.

Mr. NARENDRA KUMAR BASU: Sir, I am not questioning your ruling or the wisdom of your decision in this matter. So far as the question of joint or separate electorate *vis à vis* the Calcutta Corporation is concerned, that question is, for our present purposes, dead and

buried. We have only to discuss the wisdom or otherwise of this Bill, *viz.*, whether it is proper and wise for Government to give four additional seats to the Muhammadans; and that is the whole question, Sir. I see no reason why the Muhammadans should not take advantage of this offer of four more seats, and I see absolutely no reason why any of my Hindu brethren should grudge these additional four seats to them. As regards the distribution of the seats, the matter might be left to the Select Committee to decide. I see no reason why the Hindus should grudge these four additional seats; nor have I heard any one to say that he does grudge these four seats to the Muhammadans, but I do not see any reason why the Muhammadans should look at it, if I may be permitted to use the expression, as in the case of "a gift horse in the mouth."

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I submit that the question be now put.

Mr. PRESIDENT: I shall divide the motion into two parts. I shall first put the motion for reference to a Select Committee, and then I shall put the motion about the personnel of the Select Committee if the former is carried.

The question before the House is that the Calcutta Municipal (Second Amendment) Bill, 1932, be referred to a Select Committee.

The motion was put and agred to.

Mr. PRESIDENT: The question before the House is that the Calcutta Municipal (Second Amendment) Bill, 1932, be referred to a Select Committee consisting of—

(1) Maulvi Abul Kasem,
(2) Mr. A. Raheem, C.I.E.,
(3) Mr. H. S. Suhrawardy,
(4) Maulvi Muhammad Solaiman,
(5) Khan Bahadur Muhammad Abdul Momin,
(6) Mr. A. K. Fazl-ul Huq,
(7) Mr. W. H. Thompson,
(8) Babu Jatindra Nath Basu,
(9) Mr. Narendra Kumar Basu,
(10) Mr. B. C. Chatterjee,
(11) Mr. H. P. V. Townend,
(12) Mr. D. J. Cohen,
(13) Mr. Razaur Rahman Khan, and
(14) the mover,

with instruction to submit their report within three days from the date on which this motion is carried in Council and that the number of members whose presence shall be necessary to constitute a quorum shall be five.

The motion was put and agreed to.

The Report of the Committee on Public Accounts for 1930-31.

The Hon'ble Mr. J. A. WOODHEAD: Sir, I beg to present the Report of the Bengal Legislative Committee on Public Accounts for the year 1930-31.

Excess grant.

9A—Scheduled taxes.

The Hon'ble Mr. J. A. WOODHEAD: On the recommendation of His Excellency the Governor, I beg to move that an excess grant of Rs. 609 be voted by the Council to regularise the expenditure actually incurred in excess of the voted grant in the year 1930-31 under the major head "9A—Scheduled taxes."

Members of the Council will find the reason for this excess grant explained at page 6 and in Appendix III of the Report of the Committee on Public Accounts. This small excess was due to the cost of stamps which were expected to be received in April, 1931, and for which provision had been duly made in the budget for 1931-32, but which were actually received and paid for in March, 1931, instead of in April, 1931.

The motion was put and agreed to.

5-45 p.m.

Khan Bahadur Maulvi AZIZUL HAQUE: I wish publicly to express the thanks of the House for the administration of the Finance Department of the Government of Bengal which is probably the best in the whole of India and I have very good grounds for saying this. I do not know whether it is due to bad finance and the bad financial position of the Government. As members of the Public Accounts Committee we have scrutinised the administration of the Finance Department very carefully and we think that it is the best in the circumstances.

The Hon'ble Mr. J. A. WOODHEAD: May I thank the Khan Bahadur for his kind remarks as regards the Finance Department of the Government of Bengal?

Supplementary demands for grant.

26—Police.

The Hon'ble Mr. W. D. R. PRENTICE: On the recommendation of His Excellency the Governor I beg to move that a sum of Rs. 3,00,000 be granted under the head "26—Police" for the current financial year to meet anticipated extra police expenditure in connection with revolutionary movements.

This demand is explained in some detail in the memorandum that has been circulated and as only one hour has been allotted to the discussion of this item, I do not propose to take up any time of the House in explaining the demand further. But I would like only to point out that this demand covers two branches of police work, *viz.*, protection and investigation. So far as Calcutta is concerned, we have had to increase the force for the reasons specified, but we hope to meet the expenditure in Calcutta by reappropriation. In Bengal unfortunately that is not the case. We have had to provide for an increased staff both in the Central Intelligence Bureau and in the districts; we have had also to provide for their uniform and arms. In addition, we have provided extra mobility for the forces at Dacca by providing a motor-car for the District Intelligence Branch staff. There is also an extra provision for secret service money and rewards. The figures we put forward are only approximate and there will be further additional expenditure. For Government have recently sanctioned an increase in the armed police at Dacca by 100 men. We hope that the expenditure for this item will be met out of the Rs. 29,000 which we have kept in our hands. I dislike having to come to this House always for more money for police, but unfortunately the expenditure is forced on us by reasons over which we have no control. I want the House to remember that although Government appreciates to the full the financial difficulties of the province, it cannot exercise its full responsibility for the safety of the province without making this extra provision. We hope that the Council will support Government in this matter and vote the amount asked for.

The following motions were called but not moved:—

Mr. P. BANERJI: "That the demand for Rs. 3,00,000 under the head '26—Police' be reduced by Rs. 2,99,999-8."

Mr. NARENDRA KUMAR BASU: "That the demand for Rs. 3,00,000 under the head "26—Police' be reduced by Rs. 2,99,999."

MUNINDRA DEB RAI MAHASAI: I beg to move that the demand of Rs. 3,00,000 under the head "26—Police" for the current financial

year to meet anticipated extra police expenditure in connection with revolutionary movements be reduced by Rs. 2,99,000.

Sir, it was not after all a pleasant task for me to rise in opposition to extraordinary demands under the head "Police" on each occasion it comes up before the Council. The policy underlying the grant stands self-condemned and does not require castigation at my hands. The weapons forged to combat with revolutionary movements are legion and the addition of each new weapon in the armoury undoubtedly entailed additional expenditure. The Government of Bengal have become bankrupt not only for its depleted exchequer but also for its want of sound statesmanship. Ruthless repression is responsible for strengthening the hands of the terrorists with fresh recruits, but Mr. Prentice, I think, will not care to admit it. If this state of things is allowed to continue, the country will drift from bad to worse. The expenditure under the head "Police" has gone up by leaps and bounds during recent years and has well nigh reached the *Chouth* or a fourth of the revenues of Bengal. In each session of the Council additional demands are being invariably made for expenditure under that head.

Sir, the Retrenchment Committee has recommended reduction of expenditure under certain heads with a view to make the two ends meet, but if the Police demands go on at the present rate, the expected savings will vanish into thin air in no time. Even the colossal wealth of legendary Kuvera, not to speak of ten-twelve crore of Bengal, will get exhausted, if squandered away in this irresponsible manner.

The policy which is being pursued at the present moment has got to be changed, if Bengal is to be saved from the financial disaster which awaited it. Loans are being incurred to run the administration. Money is not available for the nation-building departments. Education grants are being reduced to the minimum. For instance, in spite of my personal appeals for a few hundred rupees for making primary education free and compulsory in my municipality, the reply came with emphatic "No" from the Finance Member. Such a paltry sum could not be spared for a much-needed object, but there was no dearth of money—lakhs upon lakhs of rupees for police luxuries. Instances like this may be multiplied.

Sir, there is no sane man in the country who does not detest the heinous crimes with which the terrorists are associated. Every one will agree with me when I say that they should be put down with a strong hand, but pray do not help to increase their number by your erratic action. You have not been able to correctly diagnose the disease and you are applying the wrong remedy to root it out. Like quacks you are repeating the same patent remedy of repression adding stimulant after stimulant without any tangible effect whatsoever. It is proving worse than the disease.

In course of an address delivered recently on the Delhi Y. W. C. A., Colonel Berkeley Hill, the well-known British psychologist, said that "he had no faith in the measures taken by the Government to combat the evil." He was supported by another British physician, Major-General J. W. D. Megaw. According to them "psychological analysis would be more helpful to find out a correct remedy to eradicate this form of crime," and they offered their services to eradicate the same. The gratuitous advice offered by the two eminent physicians will of course be turned down by quacks, but I think it is high time to engage the services of these experts to make a psychological survey of the mentality of those who control the destinies of Bengal at the present moment.

Sir, the revolutionaries may be held responsible to a certain extent for extra expenditure, but can the Government be absolved from all responsibility in the matter? In their frantic efforts to combat with the revolutionaries, they are directing their energies into wrong channels and are committing blunder after blunder caring little for the huge cost they entailed. Bengal seems to be in a state of seige- the army of occupation is being distributed among the different districts. The mighty British army is there; what is the necessity of further expenditure on temporary district intelligence staff or of temporary officers in the Criminal Investigation Department? The intelligence of the permanent staff have been tested several times - it was a history of sad failures. What better result can be expected out of temporary men? When the permanent staff could not give timely intimation to save the valuable lives of Messrs. Simpson, Peddie, Garlick, Douglas, Stevens and other high officials, what guarantee is there that the temporary men will do better?

Bengal's finance is in a very bad way. I hope this House will look into the real interests of the country and not play the part of over-generous Gouri Sen or play pranks with the scanty resources of the province.

The Hon'ble Mr. W. D. R. PRENTICE: The only thing the mover has touched upon is economy. We dealt with that question in the memorandum. Government are fully cognisant of the seriousness of their financial position and although they did their best to keep their expenditure within the grant, they found they had no alternative but to increase the staff and equip them properly for their duties. They have also pointed out in their memorandum that the question of the strengthening of the Intelligence Branch staff was investigated by an officer of the Indian Civil Service and his report made it evident that there was necessity for it.

The motion of Munindra Deb Rai Mahasai was then put and lost.

The following motions were called but not moved:—

Haji BADI AHMED CHOWDHURY: "That the demand of Rs. 3,00,000 under the head '26—Police' for the current financial year to meet anticipated extra police expenditure be reduced by Rs. 1,00,000."

Dr. NARESH CHANDRA SEN GUPTA: "That the demand of Rs. 3,00,000 under the head '26—Police' be reduced by Rs. 100 (to protest against the extension of the employment of police in carrying out repression)."

Maulvi HASSAN ALI: "That the demand of Rs. 3,00,000 under the head '26—Police' for the current financial year to meet anticipated extra-police expenditure in connection with the revolutionary movement be reduced by Rs. 100 (to criticise this excess police expenditure in the present economic distress in the country)."

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that the demand of Rs. 3,00,000 under the head "26—Police" be reduced by Rs. 100 (to protest against the decision of the Government to realise the collective fine of Rs. 50,000 from the Hindu residents in Chittagong).

I shall be short. I shall take the hint given by the Hon'ble Mr. Prentice an hour ago. I shall have to omit a lot of what I would like to say. I am moving this token cut as a protest against the decision of the Government to realise the collective fine of Rs. 80,000 from the Hindu residents in Chittagong. This matter has been so prominent before the public lately that I need not deal with the subject at length. The decision of the Government of Bengal to impose this collective fine was received with great surprise by the people of this province. A collective fine can only be justified when in a particular area a large number of people identify themselves openly with any outbreak of disorder, but so far as Chittagong is concerned, nothing of that nature has happened lately. On the basis of an isolated case of outrage at Pahartali Institute, the Government announced their decision almost immediately after the occurrence, possibly within a week, that a collective fine should be imposed. That feeling of surprise gave way to deep resentment among the Hindus throughout Bengal when it became known that the Government were going to impose the fine on the Hindus alone. Discriminatory action of this nature will have a very far-reaching effect and I do not think that Government have seriously considered that aspect of the question when they decided to impose this fine on the Hindus only.

6 p.m.

Is this an example that this Government, which is to be replaced very soon by responsible government, is going to leave to its successor? Hitherto in the province of Bengal such action has never been taken. Such discriminatory action was uncalled for and unthinkable up to this time. In future governments there will be great danger of predominating interests in the government imposing such discriminatory fines and that will hardly be conducive to good government. Sir, it is claimed on behalf of this Government that it is a very efficient Government. It is held up as a great ideal, and at the fag end of the administration when there is to be a change in the system of government, this will be a very bad precedent to leave to its successors. Sir, the feeling about this matter is not confined to Hindus alone. At the meeting held under the presidency of Khan Bahadur Abdul Momin both the Hindus and Moslems gave expression to their feeling of resentment and that found expression in the speech of Khan Bahadur Abdul Momin, whom nobody can by any stretch of imagination accuse of being in sympathy with the terrorists, who held a responsible post under Government until very lately, and who can be expected to view things from a proper perspective of the Government policy, and I think Government will be well advised to accept his advice.

Mr. P. BANERJI: I beg to move that the demand of Rs. 3,00,000 under the head "25- Police" be reduced by Re. 1 (to raise a discussion about the recent excess on the part of the police).

Sir, the previous speaker, Mr. Shanti Shekhareswar Ray, has already pointed out that there has been a great injustice done to the people by the imposition of a collective fine. Sir, the other day when replying to a question about excesses done at Chittagong, the Hon'ble Mr. Prentice said that the law must take its course and that only 50 houses were searched. But, Sir, I have received information to-day from a member of the Legislative Council from Chittagong that more than 150 houses were searched, that men were brought out from their houses and kept handcuffed on the streets, while the police entered the houses and terrorised the women folks in the name of law and order. They entered the *zenanas* of more than 150 houses——

The Hon'ble Mr. W. D. R. PRENTICE: Sir, is it in order to make these allegations on hearsay evidence? He said that he heard from a Muhammadan member from Chittagong.

Mr. PRESIDENT: How do you justify the remarks you made just now, Mr. Banerji?

Mr. P. BANERJI: I accept what he said; he is a member of this House. The Hon'ble Mr. Prentice himself also depends on certain information and also speaks on such information.

The Hon'ble Mr. W. D. R. PRENTICE: The gentleman who is a member of this House may make the allegations himself.

Mr. PRESIDENT: What the Hon'ble Member is, perhaps, drawing your attention to is that when a member makes any serious allegation he should either speak from his personal knowledge or on information in respect of which he has been fully satisfied by his informant. That is the point. You may go on if you can very well make yourself responsible for the accuracy of your information.

Mr. P. BANERJI: May I submit, Sir, how will it be possible for a member of this House to relate incidents which have occurred unless he gets information? It is humanly impossible and the Hon'ble Mr. Prentice will, I hope, realise that.

There have been many excesses committed in Chittagong which is at one end of Bengal and in Midnapore which is in another end. The other day, when speaking on the excesses committed at Midnapore, I was not able to give details in the 15 minutes' time allotted to me. It would take hours and days together to relate the excesses committed in the name of law and order and when we put questions relating to those incidents we are not supplied with any information. Sir, we have been living in this country for 14 generations upwards and we want to live here for 14 generations downwards, but I say to those gentlemen who are shaping the destiny of this country that the time has come when it has simply become impossible to live here. It will be impossible to live in this country under the present system of Government if in the name of law and order such excesses are committed from one end of Bengal to the other. I related certain incidents the other day and requested the Hon'ble Member to make inquiries, so that opportunities might be given to prove the excesses that are being committed. Sir, we are in a hopeless position to-day. If I give details of the excesses, then every member will be astonished to hear that the excesses are committed in the name of law and order, arsons and other kinds of——

Mr. PRESIDENT: Order, order. Why do you say "in the name of law and order"? I think you are speaking on police excesses; of course I do not stop you; if you have got to labour that point, you can do that, but perhaps you are using this phrase carelessly.

Mr. P. BANERJI: What I beg to submit is that these members of the police do things in the name of law and order; they are doing excesses, they are committing oppressions, they are terrorising the people and they go to the villages for doing these things in the name of law and order.

Mr. PRESIDENT: But how can you say that these crimes are being committed in the name of law and order?

Mr. P. BANERJI: Anyway, Sir, I might give up that point about law and order. But I submit that the police are going from village to village terrorising the people. My point is why should we give more money to the police; if you go through the budget, you will find that year after year the police budget has been increasing and it was increased by 25 per cent. last year and again they want more money. We give them money to protect us, but instead of protecting us they leave us unprotected, and I say this huge money is being wasted. I say there have been too much excesses on the part of the police and people feel that they are not living under a civilised Government. I do not hesitate to say that they feel that they are worse off now than they were under the Bargis and the Maharatta raiders. I submit that an inquiry should be made both in the interest of Government and the people and the police should not be allowed to commit such excesses. With these words, I commend my motion to the acceptance of the House.

Maulvi ABDUL KARIM: Sir, I support the motion. I think there is no difference of opinion as regards the necessity of putting down terrorism with a firm hand. No one denies that the terrorists have become a great menace to the peace of the country and they have made life and property very unsafe. If there is any hesitation in supporting drastic measures for the suppression of terrorism, it is because people fear lest these should be abused and turned into engines of oppression by unscrupulous officers. That innocent people have been harassed at times by overzealous officers is perhaps too well known to need detailed mention. It is to be regretted that either for lack of correct information or for the sake of prestige, Government do not seem to be inclined to take such action as would put a stop to this deplorable state of things.

What happened at Chittagong the other day? We have received reliable information, which we have no reason to disbelieve, that a number of innocent men and *purdahnashin* women were roughly handled and greatly humiliated and the Muazzim of a mosque was prevented from uttering the call to prayers by reason of a search for absconders.

6-15 p.m.

From what I know of Chittagong, where I resided for five years, I cannot persuade myself to believe that the houses of suspected people in Alkaran could not have been searched without searching at the same time the houses of people on whom there could be no suspicion of concealing absconders. In fact, Alkaran, in my time, was a Mussalman quarter of the town, where there was only a sprinkling of non-Muslim houses. I do not know if during the last two decades when I have been away from Chittagong, there has been such an invasion of Alkaran by non-Muslims that at present two-thirds (100 out of 150) of the houses in the locality belong to non-Muslims.

The fact that not even a single absconder was found in any of the houses searched, unmistakably shows that action was taken on absolutely mischievous or false information, although it has been said that the information was "definite." Would it be too much to expect that adequate action would be taken against the informer or informers, who have caused so much trouble to innocent people and seriously compromised the position of Government? While there is much bitter feeling among a large section of the people, would it be wise to antagonise those who have hitherto given no cause for complaint?

To cite another instance, some time ago there was a case of atrocious police *zulum* in Mymensingh. Some police officers, whom I cannot better characterise than as brutes, committed horrible atrocities on some innocent women in order to wreak vengeance on their male folk. The culprits, I understand, have not yet been punished, although, if my information is correct, their guilt has been proved.

I need hardly say that regrettable occurrences such as these have been causing indescribable sufferings to the people and creating immense discontent and disaffection throughout the country. Even those who have all along been staunch loyalists are fast losing faith in Government's justice and fairness. I shudder to think what will be the ultimate result of all this. The sooner the undesirable impression prevailing in the country is removed and the people are assured, not by mere words but by effective action, that such deplorable incidents would not be tolerated any longer, the better would it be for all concerned.

Mr. SYAMAPROSAD MOOKERJEE: At this late hour, and also in view of the fact that the time is rather short, I do not think that in supporting the two amendments it would be possible for me to lay detailed facts before the House. But I do desire to be associated wholeheartedly with the two amendments which have been moved by Mr. Ray and Mr. Banerji. As regards the amendment moved by Mr. Ray, namely, the imposition of a collective tax upon the Hindu residents

of Chittagong, I should like to say only a few brief words. Public opinion on this question has been manifestly evident since the proposal was made that such a collective tax was going to be imposed on the Hindu residents of Chittagong. Sir, one aspect of the question has struck me very forcibly indeed. I admit, Sir, that what Government says is true, namely, that there are certain absconders who require to be apprehended; but I fail to understand how Government can possibly blame the residents of Chittagong when Government itself has failed to put those people under arrest. Sir, look at the resources which Government has. The ordinary resources which any Government has at its command, are at the command of the Government of Bengal. Over and above these resources, there are the special measures which have been put upon the statute book from time to time. Government also has unlimited funds placed at its disposal. It also has the assistance of the police, the military and the Criminal Investigation Department, and what not. But in spite of this Mr. Prentice admits that his department have failed to find out the whereabouts of several persons whom they call absconders. Therefore, in the eye of the world, which is the party that is to blame; which is the party that has proved inefficient? Surely for the inefficiency of Mr. Prentice's department the Hindu residents of Chittagong should not be penalised! If there is a proposal to impose a collective tax at all, I am sure the Hon'ble Mr. Woodhead would help us in imposing the tax on the Hon'ble Member himself and his officers. They deserve it more than anybody else. The department has proved inefficient, and for that reason it does not at all become any Government department to say that it will penalise *ad hoc* the entire body of citizens in Chittagong belonging to a particular community.

As regards the second amendment moved by Mr. Banerji about excesses, references have already been made to Chittagong. My friend, Mr. Karim, has already referred to the Muhammadan residents of Chittagong, whose houses have been searched in the course of the last few days. There was another report made, namely, of the occurrences at Goalpara in Chittagong. Many houses were searched there and exactly similar things happened. The report which has been read out by Mr. Abdul Karim is not, therefore, an isolated instance. Things like that have been happening in different parts of Chittagong. How, in spite of the rigours of the Ordinance, such information is leaking out and is reaching us through the columns of newspapers I do not know. Members whose houses were searched, they have had the courage to publish the incidents in cold print and up till now we have not had anything published by Government contradicting those statements or even one of them. In this case the men were brought out of their houses and their hands were tied behind their backs and their women folk were made to stand for hours. One of these women who

was pregnant asked for permission to sit down, but the result was that abuses were hurled at her. But the climax was reached when all these gentlemen (who were apparently respectable persons) were made to dance in a circle; I do not know what particular amusement it offered to the officer-in-charge, as indeed I do not know what particular amusement would it offer to anybody in this House to see my friend, the Hon'ble Mr. Prentice, and members of his department dancing round a circle; although that is an experiment worth trying. The irony of the thing is that these gentlemen, who have been thus treated, are the very gentlemen who describe themselves as members of the local anti-terrorist committee. These gentlemen in their petition to the Governor rightly point out—"we are the very persons who have formed a committee to combat terrorism and yet it is on us that the wrath of the police and the military is visited." I do say that in the interest of Government a sifting inquiry should be made. My Muhammadan friends to-day find that even they have not been exempted. I would tell Mr. Prentice that if in this matter the Hindus and Muhammadans have combined, there will be future occasions also when we will act together. And how long can Government expect to act in an irresponsible manner, flouting public opinion on matters such as this?

Khan Bahadur MUHAMMAD ABDUL MOMIN: I rise to speak on this motion, not in anger but in sorrow. Most of us on this side of the House have been consistently supporting the Government in providing the executive with the special powers they needed for the suppression of terrorism and civil disobedience in this province and shall continue to give them our support so long as the conditions which necessitate such powers, exist. We have given our support, though reluctantly, with the full sense of responsibility, not to oblige Government, not to curry favour with them, but because we honestly feel that in the absence of any alternative remedy Government should have full powers to deal with the situation. We believe that Government on the whole is honestly trying to suppress these movements and that in doing so they will use their power with as great a consideration for the civic rights and personal liberty of the individual as possible. To-day, Sir, if I have stood up to protest against the manner in which the officers of Government have been using their powers, I do so not with an eye for popularity from any section of the people, nor with any intention of playing to the gallery, but because I honestly feel that it is our duty to stand by the people who have sent us here. I appeal to the House and through the House to the Government for the redress of these grievances. These people, Sir, as far as we know, are innocent of any connection with any movement against law and order, and do not deserve the treatment which has been meted out to them. In answer to a question of mine about house-searches in Chittagong on Thursday last, the Hon'ble Mr. Prentice informed the House that 150 to 200

houses were searched, and with regard to the allegation that ladies were rudely treated, Government were satisfied that none was intentionally subjected to insult. We take it for granted, Sir, that there was no intention to insult, but we are not concerned with intention, but with action, and whether such action did or did not affect the susceptibilities of the people in general and ladies in particular. How actually the people felt I shall quote from a letter written to me by a gentleman of Chittagong, than whom a more honest and sober man does not live in that town. This is what that gentleman has written to me about these incidents. "Maulvi was also insulted and his house and female members were also searched. He saw Mr. Hands who made him see the Deputy Inspector-General, who apologised." This is, Sir, what I particularly draw the attention of the Hon'ble Member to. He proceeds "the feeling of the Muhammadans is very much tense and any future provocation will be fraught with serious results. With the greatest difficulty we have calmed the people who are in great consternation over these iniquities on their females." That is the feeling of the people, Sir.

Mr. PRESIDENT: Will you please give out the name of the writer?

Khan Bahadur MUHAMMAD ABDUL MOMIN: I hope, Sir, you will excuse my not doing so.

Mr. PRESIDENT: I do not press: but on principle I do not allow a member to read anything from a letter or document unless it is authenticated and the name of its author is given, or the whole of it is made available to the House, if required.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I am sorry, Sir, that for many reasons I find it rather difficult to give out the name. This letter was written to me on the 1st of December and I leave the House to judge how much faith can be attached to the report of local officers that the Deputy Inspector-General's meeting with the Muhammadans on the 21st November had the effect of allaying the excitement and that his conciliatory attitude was appreciated As regards the intention of these searches, I ask for the indulgence of the House to quote from another letter written by a man whose veracity cannot be questioned.

Mr. PRESIDENT: Are you again reading out from a letter? In that case you must give me the name of the writer.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I am afraid, Sir, I am unable to do so.

Mr. PRESIDENT: Then you had better not quote from the lette

Khan Bahadur MUHAMMAD ABDUL MOMIN: Very well, Sir.

6-30 p.m.

I may say, Sir, that I am compelled to refer to these incidents because I have received information that somehow the impression ha gained ground in Chittagong that the behaviour of the police toward the Mussalmans was, in some mysterious way or other, due to an action on my part. But, Sir, I want to protest against any such insinua tion, and I cannot believe that the people of Chittagong could hav arrived at any such conclusion so far as I am concerned; though I kno that the impression is still there in some quarters. Sir, I bow dow to your ruling, but I am afraid that I cannot divulge the name of th writer except quoting the actual words.

(Laughter.) The Hon'ble Member in reply to a question o mine——

The Hon'ble Mr. W. D. R. PRENTICE: On a point of order, Sir What was the utility of holding an inquiry by the District Magistrate when an inquiry had already been made by the Deputy Inspector-General of Police? I see no point in this argument.

Khan Bahadur MUHAMMAD ABDUL MOMIN: I was told that the Deputy Inspector-General of Police was an officer superior in rank to that of the District Magistrate. I certainly ought to have known this; and I do know this. But, I also know that the people have more faith in a Magistrate and a Judge than they have in police officers, particularly in a case where the incidents complained of are alleged to have been committed by subordinate police officers. I do not challenge the reasons of Government for searching houses where there was reasonable apprehension that absconders might have taken shelter in them. But the inclusion in the programme of house-searches of the houses of gentlemen who are above suspicion—and also the searching of the persons of their women—simply because they fall within the cordon drawn by the police, cannot be justified under any circumstance. Will it be justifiable, Sir, for instance, to have your house or mine searched, if the locality in which they are situated is suspected to shelter the absconders?

A feeling has gone abroad and this, I am afraid, is universal that the governance of the country has been surrendered to the police, and that when the Inspector-General or the Commissioner of Police says "Yes" in any matter, no one has the power to say "no." Personally, I do not say that this is a correct version of facts, but I mention this

only to emphasise the necessity of keeping a firm hand over the officers in the *mufassal* and give the people that confidence and that sense of security which they felt they had before all these troubles arose.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I should like to deal with Chittagong first. A leading hon'ble official gentleman of Chittagong came to see me to-day, one Khan Sahib Dubash. I must confess that I do not remember his full name.

Khan Bahadur MUHAMMAD ABDUL MOMIN: It is Maulvi Abdul Haq.

The Hon'ble Mr. W. D. R. PRENTICE: He was one of the committee of 15 men who saw the Deputy Inspector-General of Police, and he told me that there was no excitement whatsoever in Chittagong. He said that everything was quite normal there, and that all this *golmal*, to quote his own words, was the work of some Calcutta Muhammadans who, in their turn, are the tools of some Muhammadans of the Congress school of thought in Chittagong; and it is they who are trying to work up feeling on the subject. These Calcutta Muhammadans are the tools of their coreligionists in Chittagong—that is what the Muhammadan gentleman from Chittagong told me to-day. (Ironical cheers.)

Mr. SHANTI SHEKHARESWAR RAY: Is that Muhammadan gentleman expecting a Khan Bahadurship?

The Hon'ble Mr. W. D. R. PRENTICE: I do not know.

Sir, when I asked this Muhammadan gentleman whether I had his authority to make this statement in the Council, he said, "Yes, certainly".

Mr. NARENDRA KUMAR BASU: Does he speak English?

The Hon'ble Mr. W. D. R. PRENTICE: No, but I can talk a certain amount of Hindusthani.

I also asked him about the house-searches. He said: "Certainly there were some house-searches, but the complaint has been grossly exaggerated. The local Muhammadans did not object to their houses being searched, if that was necessary: all that they urged was that a Muhammadan officer should be present at the search". This information was given me this morning by this non-official who, I gather, furnished similar information to one of the Muhammadan members of Government. This Muhammadan non-official was one of the members of the committee which went to see the Deputy Inspector-General of

Police, and I suggest that his statement is a substantial corroboration of the official report, and should put a stop to all doubts on the subject of these searches.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Is he a reliable person?

The Hon'ble Mr. W. D. R. PRENTICE: Certainly, I believe him to be honest, and he did not come to me for any favour, or with any request.

So much about the allegations and insinuations about Chittagong made by an *ex*-Commissioner against Government.

Mr. SYAMAPROSAD MOOKERJEE: This is certainly a departure from common courtesy. The Hon'ble Member himself may soon become an *ex*-Member of the Executive Council and relieved of the trappings of office.

The Hon'ble Mr. W. D. R. PRENTICE: I am sorry, if I have hurt any one's feelings. That was not my intention.

So much for the information as regards Chittagong that I got from a leading non-official to-day.

Maulvi ABDUL KARIM: This is no new information to me——

Mr. PRESIDENT: (To Maulvi Abdul Karim.) You cannot speak now.

Mr. SHANTI SHEKHARESWAR RAY: May I ask the Hon'ble Member——

Mr. PRESIDENT: Order, order. The Hon'ble Mr. Prentice should be allowed to proceed with his speech.

The Hon'ble Mr. W. D. R. PRENTICE: I am only telling you what that gentleman told me in my office to-day at about 12 noon.

Well, the other thing about Chittagong is the general question.

Mr. SHANTI SHEKHARESWAR RAY: What about the house-searches——

Mr. SYAMAPROSAD MOOKERJEE: What about the searches of Hindu houses which I mentioned in my speech recently?

The Hon'ble Mr. W. D. R. PRENTICE: I gather the report is in, but I have not had time yet to consider it and so I am not in a position at present to state exactly what actually happened there. I am told, however, that the allegations were inquired into by the Additional District Magistrate, who is a Hindu, and that he has reported that there is no truth in most of them.

Mr. NARENDRA KUMAR BASU: Did not the Hon'ble Member get any report from any Rai Saheb?

The Hon'ble Mr. W. D. R. PRENTICE: No; he is a plain "Mr.".

The most important question in connection with the Chittagong affairs is that of the collective fine, and I fully realize that this question has aroused a great amount of public indignation. I have every sympathy with the people of Chittagong and also with the sentiments of the opponents of the fine. But I would only ask the members of this Council to realize that the order for the imposition of such a fine has not been passed without the most careful consideration on the part of Government. Mr. Shanti Shekhareswar Ray says that that order was passed in a hurry. Surely that is an incorrect statement.

Mr. SHANTI SHEKHARESWAR RAY: May I rise on a point of personal explanation, Sir? I stated that——

Mr. PRESIDENT: Order, order. You cannot do that, unless the Hon'ble Mr. Prentice yields.

Mr. SHANTI SHEKHARESWAR RAY: I expected that he would yield. (Laughter.)

The Hon'ble Mr. W. D. R. PRENTICE: I think it was Mr. Shanti Shekhareswar Ray who said that the fine imposed on Chittagong was an indication of our failure to rule, and that there was no responsibility on the part of the Hindu community which could justify such imposition.

Now, Sir, what are the facts? There was the raid in 1930: Government did everything in their power, by employing the services of the police, the troops, and also by legislation, to do their duty by the Hindu community in tracing out the absconders. The point at issue is why they have failed. I have no hesitation in saying that it is because we have not had the co-operation of the Hindu community at Chittagong—none at all. The absconders we want are all Hindus, and the "wanted" persons are practically all wandering about the locality, and we have not had any co-operation from the Hindu community in

tracing them out. I do not say that all the Hindus know where all the absconders are, but I do say that the whereabouts of every individual absconder are known to some of the local Hindus. Practically, every educated Hindu in that neighbourhood knows at least some of those who are absconding, and no Government forces can bring to book these absconders, because of the non-co-operation of the public.

Mr. SYAMAPROSAD MOOKERJEE: You do not care for it.

The Hon'ble Mr. W. D. R. PRENTICE: Yes, we do. We want the public to come forward and give us information.

Mr. SHANTI SHEKHARESWAR RAY: What about the activities of the Criminal Investigation Department?

The Hon'ble Mr. W. D. R. PRENTICE: The Criminal Investigation Department cannot work without public co-operation. They can work only on information furnished to them.

Up till now, no people have come forward with any kind of information. Unfortunately, all our efforts have failed, because there has not been the active co-operation that we are entitled to expect from the Hindu community. Was it possible for the Pahartali outrage to be committed without the preparations being known to certain inhabitants of Chittagong? Where were these raiders hiding? They were hiding somewhere in the locality and there they planned and executed the raid. Do the Hindus say they were hiding in Muhammadan or Buddhist houses—yes, or among the Europeans? There is no such claim. Surely, therefore, the Hindus cannot complain if the Muhammadans, the Christians, and the Buddhists in Chittagong have not been penalised like the Hindus.

Mr. SHANTI SHEKHARESWAR RAY: Was not an unlicensed gun seized from a European?

The Hon'ble Mr. W. D. R. PRENTICE: The House cannot complain if the powers given by the law are applied in such manner as may help to bring the absconders out of their hiding places.

The collective mode of punishment is in the law: it is not a new thing: it has been in the Police Act for the last 70 years. The reason for imposing a collective fine is collective responsibility. Government indicated to the Hindu community before imposing the collective fine that they should co-operate in tracing out the absconders. Once the fine was imposed, there was some indication of co-operation on the part of the Hindu community, and, accordingly on the suggestion of the

local officers Government deferred the collection of the fine. But the local parties which the Hindus formed have yielded no tangible results and so Government have now issued orders that the collective fine shall be realized. At the same time they have also issued orders to the effect that should the Hindu community co-operate with Government in this difficult task, the question of the utilization of the fine will be reviewed. It lies with the Hindu community in Chittagong as to what the final form of those orders was going to be.

6-45 p.m.

Meanwhile, the money will be collected and it depends entirely on the Hindus and the co-operation they give us in future—a co-operation which they failed to give us in the past, as to what will happen to the money when collected. I am not saying this light-heartedly. Nobody wants that the innocent should suffer with the guilty, but at times it is inevitable.

Mr. NARENDRA KUMAR BASU: Function: You have ceased to function.

The Hon'ble Mr. W. D. R. PRENTICE: I wish I had time to answer this, but my time is short. The position is that we have endeavoured to function, but no Government can function successfully without the help of the local people and these give no information. It is practically impossible for any Government to function without co-operation; there must be co-operation between the people and the agents of Government.

Mr. SYAMAPROSAD MOOKERJEE: You do not seek for public opinion.

The Hon'ble Mr. W. D. R. PRENTICE: We do.

Mr. NARENDRA KUMAR BASU: You must seek for co-operation and not coerce people into co-operation.

The Hon'ble Mr. W. D. R. PRENTICE: We always seek for willing co-operation and do not ordinarily endeavour to coerce people into co-operation. That is our answer.

(Here the time-limit under the head "26—Police" having been reached the Hon'ble Member resumed his seat.)

The motion of Mr. Shanti Shekhareswar Ray was then put and lost.

The motion of Mr. P. Banerji was then put and a division taken with the following result:—

AYES.

All, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Eusufji, Maulvi Nur Rahman Khan.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Heque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprasad.
Poddar, Seth Hunuman Prasad.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Ray, Mr. Shanti Shekhareswar.
Reut, Babu Hosini.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdue.
Shah, Maulvi Abdul Hamid.

NOES.

Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghose, Rai Bahadur Sasenka Comar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Henderson, Mr. A. C. R.
Hussain, Maulvi Latafat.
Hogg, Mr. C. P.
Hooper, Mr. C. C.
Khan, Mr. Razaur Rahman.
Leesen, Mr. C. W.
Mason, Mr. C. A.
Mitter, the Hon'ble Sir Provash Chunder.
Mortimer, Mr. H. R.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Ray, Babu Amulyadhan.
Ray, Babu Nagendra Narayan.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Ross, Mr. J.
Roy, Mr. Satteswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarkary Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 28 and the Noes 43 the motion was lost.

The motion that a sum of Rs. 3,00,000 be granted under the head "26—Police" for the current financial year was then put and agreed to.

The time-limit having been reached, the following motions under the head "26—Police" were not called:—

Mr. SHANTI SHEKHARESWAR RAY: "That the demand of Rs. 3,00,000 under the head '26—Police' be reduced by Re. 1 (to draw attention to the failure of the police to prevent outrages at Chittagong on the public and other recent occurrences in various other places)."

Haji BADI AHMED CHOWDHURY: "That the demand of Rs. 3,00,000 under the head '26—Police' for the current financial year to meet anticipated extra police expenditure be reduced by Re. 1 (to raise a discussion on the recent police excesses and harassment of the public, especially at Chittagong)."

47—Miscellaneous.

The Hon'ble Mr. J. A. WOODHEAD: On the recommendation of His Excellency the Governor I beg to move that a sum of Rs. 2,10,001 including a token sum of Re. 1 be granted for expenditure under the head "47—Miscellaneous—Miscellaneous and unforeseen charges" (1) to cover the expenditure in excess of the voted grant on account of persons dealt with under the Bengal Criminal Law Amendment Act, 1930, as amended by the Bengal Criminal Law Amendment Act, 1932, and detained outside jails in Bengal and (2) to meet the expenditure of the military force stationed at Chittagong and at other places in Bengal.

The reasons for this demand have been explained in the two memoranda circulated to members of the Council and I do not propose to expand what has already been stated therein. But I should like to explain the reason for the token grant of Re. 1. Rule 32 of the Bengal Legislative Council Rules requires that an estimate shall be presented to the Council for a supplementary or additional grant when a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year. As the probable expenditure on the new service with which the demand deals, namely, the stationing of military forces at Chittagong and in other parts of Bengal is not yet accurately known, it has been impossible to determine with precision the expenditure likely to be incurred; still it is desirable—and I think obviously desirable—that the expenditure should be brought before the Council at the earliest possible date, and the Council is, therefore, being asked to approve of the expenditure by means of a token grant of Re. 1 for the present. As has been explained in the second memorandum, a demand for a definite sum will be placed before the Council later on when the probable expenditure is more accurately known.

* * *

Mr. PRESIDENT: I propose to read at this stage a message which has been received from His Excellency the Governor. It runs thus—

"In modification of existing orders regulating the order of business in the Legislative Council I now consider that Government business

set down for to-day's sitting but remaining undisposed of when the Council adjourns this evening, be taken up immediately after the disposal of questions on Wednesday, the 7th December, to be followed by the non-official business already ordered to be taken up on that day."

I, therefore, do not propose to deal with the motions for reduction to-day and adjourn the Council till 3 p.m. day after to-morrow.

Adjournment.

The Council was then adjourned till 3 p.m., on Wednesday, the 7th December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 7th December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 105 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Jurors and assessors.

*83. **Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware of the system by which the list of jurors is prepared?

(*b*) Is the Hon'ble Member also aware that the list prepared does not always contain the best men in each union?

(*c*) Is it a fact that the list is usually prepared by the *nazirs* in the collectorate in consultation with the circle officer?

(*d*) Is it also a fact that the basis of preparation is generally the personal knowledge of the said officer and the information supplied by the *panchayat* or the president of the union?

(*e*) Is it a fact that no local inquiry is made confidentially by such officer as to the character and antecedents of the persons included?

(*f*) If the answers to (*c*), (*d*) and (*e*) are in the negative, will the Hon'ble Member be pleased to state by whom the list of jurors is prepared?

(*g*) What steps, if any, do the Government intend taking for the improvement of the present system of preparing lists of jurors and assessors?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) Yes.

(*b*) and (*c*) No.

(*d*) No. *Panchayat* or union board presidents are sometimes consulted by the gazetted officer entrusted with the task of collecting information for the Collector.

(*e*) Does not arise.

(*f*) The Collector. The help of a Deputy Collector and touring officers is utilised.

(*g*) Government are not aware that the system at present in force requires alteration, but they are prepared to consider any suggestions that may be made.

Trained school teachers.

***64. Mr. S. M. BOSE:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that with the passing of the Bengal (Rural) Primary Education Act, 1930, a necessity has arisen for having in the province an adequate outturn of trained school teachers?

(*b*) If so, what arrangements, if any, have been made to increase the supply of trained women teachers?

(*c*) Is a scheme for the establishment of new training schools for women contemplated?

(*d*) Will the Hon'ble Minister be pleased to state whether it is in contemplation of Government to help the existing training schools for women by larger grants and more stipends to enable them to take in more pupils for training?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Yes.

(*b*) No arrangements have been possible owing to the financial stringency, but when conditions improve this problem will receive early attention.

(*c*) Not until conditions improve.

(*d*) A proposal has been made for the provision of additional stipends for the aided training schools, but it has been held in abeyance owing to the want of funds; for the same reason it is not possible to contemplate increased grants for those schools at present.

Faridpur Middle English School.

*65. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware that an inquiry was made by the Education Department of the District Inspector of Schools, Faridpur, as to whether any of the two middle English schools in the town of Faridpur desired to raise its status to that of a high English school with Government grant of facilities for the purpose?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the Government are considering the desirability of giving the Faridpur Middle English School authorities necessary facilities for raising the status of the school to that of a high English school?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) Yes.

(*b*) No.

Rai Sahib AKSHOY KUMAR SEN: Will the Hon'ble Minister be pleased to state why, although the Education Department expressed its desire to grant facilities for raising the status of one of the middle English schools at Faridpur, this is now refused by him?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: It is true that the Education Department suggested that the middle English school at Faridpur should be made an aided high English school, but in view of the report of the Retrenchment Committee I do not think there is any necessity for giving further consideration to the matter.

Civil Court local inquiries.

*66. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Is the Hon'ble Member in charge of the Judicial Department aware that in civil court local inquiries—

(*i*) pleader commissioners are paid by a daily fee of not less than Rs. 16; and

(*ii*) the civil court *amin* commissioners were used to be paid a daily fee of Rs. 3 only?

(*b*) Have the Government considered the question as to whether field works cannot better be done by trained and experienced civil court *amins* and map-drawings by trained and experienced draftsmen than by pleader commissioners and at a much cheaper cost?

(*c*) Is it a fact that field books are prepared generally in the presence of the parties and signed by them and they are allowed full opportunities for testing and criticising the field works?

(*d*) Are the Government considering the desirability of not appointing pleader commissioners unless insisted upon by the parties concerned?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) No: the maximum rate in Subordinate Judges' courts is Rs. 16 and in munsifs' courts Rs. 8.

(*ii*) The rate varies from Rs. 2 to Rs. 4.

(*b*) No. In the opinion of Government the pleader commissioners are more competent; the employment of a cheap agency is not desirable when work requiring technical skill has to be done.

(*c*) Yes.

(*d*) No.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether the employment of pleaders is conducive to the interest of justice when suits of small value are concerned?

The Hon'ble Mr. W. D. R. PRENTICE: It all depends on the nature of the case.

Gurkha Battalion at Comilla.

*87. **Dr. AMULYA RATAN CHOSE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact—

(*i*) that at Comilla on the night of the 9th October, 1932, about a dozen Gurkhas belonging to the 1/9th Gurkha Battalion trespassed into the house of a municipal officer who lives close to the barracks; (*ii*) that these Gurkhas left the house on a bugle call from their Havildar; and (*iii*) that the matter was reported to the officer-in-charge of the battalion by Mr. Paul Delanney?

(*b*) Is it a fact that a few days later another incident of a somewhat similar nature took place in the Chowdhuripara quarters of the same district when about a dozen Gurkhas intruded into a house in the night but fled away in the darkness of the night after an alarm was raised by the local people?

(*c*) Is the Hon'ble Member aware that the people there have become panicky at the advent of the Gurkha Battalion particularly after the incidents referred to?

(*d*) If the answers to (*a*) and (*b*) are in the affirmative, are the Government considering the desirability of inquiring into the matter and of taking steps for the prevention of similar recurrences?

(*e*) Are the Government considering also the desirability of removing the panic from the minds of the peaceful inhabitants by shifting the quarters of the military to a distance from its present site?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. PRENTICE): (*a*) (*i*), (*ii*), (*iii*) and (*b*) No. Allegations to this effect have appeared in the press but are without foundation, and a complete withdrawal accompanied by an expression of regret was published a few days ago.

(*c*) No.

(*d*) Does not arise.

(*e*) No.

Reading facilities of the convicts in jails.

***68. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state whether reading facilities are given to (*i*) ordinary, (*ii*) political convicts in the different jails in the province?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement showing the particulars of libraries maintained in different jails?

(*c*) Will the Hon'ble Member be pleased to state (*i*) whether any arrangement has been made to procure books from the Imperial Library, Calcutta, for the détenus and other convicts; and (*ii*) whether books are procured from the nearest public library as may be required for the prisoners?

(*d*) If the answer to (*c*) is in the negative, are the Government considering the desirability of considering the feasibility of the proposal?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Yes. Jail Code rules 662 and 24 of Chapter XXXIV are followed. The Jail Department has no such classification of prisoners as "Political convicts."

(*b*) In all Central Jails there are libraries. In some District Jails a small stock of books is kept for prisoners, while in others there are no regular libraries but when required books are allowed to prisoners from outside.

(*c*) (*i*) Yes. Books are obtained from the Imperial Library for détenus and in some cases for division I and II prisoners.

(*ii*) Yes. In most of the jails this is done when necessary.

(*d*) Does not arise.

MUNINDRA DEB RAI MAHASAI: With reference to answer (*b*), will the Hon'ble Member be pleased to state whether there is any library in the Hooghly District Jail?

The Hon'ble Sir PROVASH CHUNDER MITTER: I must ask for notice, Sir.

Mr. R. MAITI: Is the Hon'ble Member aware that no separate light has been provided for the prisoners for reading the books supplied to them?

The Hon'ble Sir PROVASH CHUNDER MITTER: I must ask for notice.

Détenu Sudhir Ranjan Chakravarti.

*69. **Dr. AMULYA RATAN GHOSE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether it is a fact—

(*i*) that Sudhir Ranjan Chakravarti, a détenu, has been for four months in the Krishnagar Sadar Hospital under the Civil Surgeon's treatment;

(*ii*) that the Civil Surgeon in his report to the Government urged that the détenus should be examined by a specialist;

(*iii*) that the mother of the détenu has requested the authorities to get her son X-rayed and arrange for his treatment at her own cost; and

(*iv*) that the said détenu is running a low rise of temperature and has lost 20 lbs. in weight?

(*b*) If the answers to (*a*) are in the affirmative, will the Hon'ble Member be pleased to state whether the Government are considering the desirability of—

(*i*) acceding to the request made by the détenus's mother; or

(*ii*) examining the said détenu by X-ray and arranging for his treatment as has been advised by the Civil Surgeon at his own cost?

(*c*) If there be any bar to acceding to the request of the mother of the détenu, will the Hon'ble Member be pleased to state what is that bar?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) Yes.

(*ii*) This was one of the suggestions made by the Civil Surgeon.

(*iii*) No.

(*iv*) His temperature rises in the evening. He has lost 13 lbs. since 16th June, 1932.

(*b*) (*i*) Does not arise.

(*ii*) No such advice was given by the Civil Surgeon.

(*c*) Does not arise.

Dr. AMOLYA RATAN GHOSE: Will the Hon'ble Member be pleased to state in connection with item (*a*) (*ii*) why the détenu was not examined by a specialist when the Civil Surgeon made a recommendation to this effect?

The Hon'ble Mr. W. D. R. PRENTICE: Because it was not considered necessary.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state why it was not considered necessary to have the détenu examined by a specialist?

The Hon'ble Mr. W. D. R. PRENTICE: Because that was the opinion of our expert adviser.

Mr. SYAMAPROSAD MOOKERJEE: Was he a specialist? May I know his name?

The Hon'ble Mr. W. D. R. PRENTICE: I am not prepared to give his name.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state if he was a medical man?

The Hon'ble Mr. W. D. R. PRENTICE: Yes.

Mr. SYAMAPROSAD MOOKERJEE: In view of the difference of opinion between two experts, did the Hon'ble Member decide as a non-expert?

The Hon'ble Mr. W. D. R. PRENTICE: We accepted the advice of the last expert.

Recruitment of constables and officers from among Bengali ex-soldiers.

***70. Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state what effort has been made by the department to recruit constables and officers from among Bengali *ex*-soldiers?

(*b*) How many of the demobilised men of the 49th Bengali Regiment have been appointed as police constables and officers in Bengal?

MEMBER in charge of POLICE DEPARTMENT: (the Hon'ble Mr. W. D. R. Prentice): (*a*) Government resolutions Nos. 2184 P.D., dated 27th July, 1918, and 2706 P.D., dated 22nd September, 1919, containing instructions for giving preferential treatment in the matter of appointments to those persons who rendered service in connecion with the War were published in the *Police Gazette* more than once, and the attention of Superintendents of Police was drawn to them.

(*b*) 88, apart from those appointed to the Calcutta Police Force for which no figure is readily available.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state when the attention of Superintendents of Police was drawn to these instructions last time?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid I cannot give the exact date.

Hon'ble Members and Ministers' visit to Malda.

***71. Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state on how many occasions, if any, the present Ministers and Members of the Executive Council have visited Malda after assumption of office?

(*b*) Will the Hon'ble Member be pleased to state whether such visits are discouraged by Government on financial grounds?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) None.

(*b*) No. Tours depend on the work which requires to be done, but naturally at the present time no expenditure is incurred which can be avoided.

Outrage on Railway Institute, Chittagong.

***72. Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Police Department be pleased to state what precautionary measures were taken by the local police authorities to frustrate the daring attempt on the life and property made at the Railway Institute at Chittagong?

(*b*) If the answer to (*a*) is in the negative, what action, if any, has been taken against the local police authorities in view of their failure to prevent such an outrage?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) No precautionary measures were taken as there appeared to be then no reason to anticipate that an attempt would be made on the lives of subordinate European and Anglo-Indian employees of the Railway Department and their wives and children who had no connection with Government.

(*b*) Does not arise.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state if Mr. Villiers and Sir Alfred Watson have or have not any connection with Government?

The Hon'ble Mr. W. D. R. PRENTICE: None that I am aware of.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state why after the experience of the previous outrage in the Railway Institute there was no apprehension of a similar outrage taking place again?

The Hon'ble Mr. W. D. R. PRENTICE: I do not know to what previous outrage in the Railway Institute the member refers.

Maulvi ABUL KASEM: I refer to the first outrage, I mean the Armoury raid.

The Hon'ble Mr. W. D. R. PRENTICE: That was not in the Railway Institute.

Lady détenus.

*73. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) how many ladies are being detained now under the Bengal Criminal Law Amendment Act or the Emergency Regulations in each district in Bengal;

(*ii*) the allowances paid to each lady so detained;

(*iii*) the arrangements made for the medical supervision of the lady détenus by lady doctors;

(*iv*) whether any lady detained under the Bengal Criminal Law Amendment Act or the Emergency Regulations has been transferred to any place outside Bengal;

(*v*) whether any lady detained under the Bengal Criminal Law Amendment Act or the Emergency Regulations, is segregated in cells; and

(*vi*) whether two or three or more ladies so detained are kept together?

The Hon'ble Mr. W. D. R. PRENTICE: (*i*) (*a*) Under the Bengal Criminal Law Amendment Act—13. (*b*) Under the Emergency Regulations—1.

(*ii*) Government are not prepared to give this information.

(*iii*) None.

(*iv*) (*a*) One.

(*b*) None.

(*v*) No.

(*vi*) Yes.

Number of depressed class in Provincial, Judicial and Executive Services.

*74. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Appointment Department be pleased to lay on the table a statement with names showing for the years 1929, 1930 and 1931—

(*i*) the number of munsifs, sub-deputy and deputy collectors appointed, and

(*ii*) how many of them belong to the depressed class of Hindus?

The Hon'ble Mr. W. D. R. PRENTICE: Statements of numbers only are given below for direct recruitment only. Government have no record of the castes of promoted officers who were originally recruited to Government service before 1922 and so figures for appointment by promotion are not given.

Statements referred to in the reply to starred question No. 74.

		Munsifs.	B.C.S.	B.J.C.S.
(*i*)	1929	6 permanent 16 officiating	10	13
	1930	31	9	23
	1931	8	6	10
(*ii*)	1929	3	0	1
	1930	1	2	1
	1931	1	0	0

Notice under section 144, Criminal Procedure Code, on Maulvi Abdul Hamid Shah, M.L.C., prohibiting the holding of a meeting.

*75. **Maulvi ABDUL HAKIM:** (*a*) Is the Hon'ble Member in charge of the Political Department aware—

(*i*) that a meeting was arranged at the compound of Hushindi Minor School under police-station Pakundia, district Mymensingh, on the 4th of Kartic, the current Bengali month, under the presidency of Maulvi Abdul Hamid Shah, M.L.C.; and

(*ii*) that the object of the meeting was to express public opinion on the Bengal Money-lenders' Bill, 1932, which is now before this House?

(*b*) Is it a fact—

(*i*) that a notice under section 144, Criminal Procedure Code, was issued upon the said Maulvi Abdul Hamid Shah, M.L.C., prohibiting him from holding and presiding over this meeting; and

(*ii*) no meeting was held in consequence of the said notice?

(*c*) What were the reasons for issuing such a notice?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) Yes.

(*ii*) Government have no information as to the advertised purpose (if any) of the proposed meeting, but understand that the object of the meeting was the discussion of problems regarding payment of landlords' rents and money-lenders' dues and that there was good ground for apprehending that the meeting would be used for the purpose of advocating non-payment of rent and other dues.

(*b*) (*i*) and (*ii*) Yes.

(*c*) In the opinion of the local officers the time was most inopportune for the holding of a meeting at which it was probable that the non-payment of landlords' rent and money-lenders' dues would be advocated.

3-15 p.m.

Babu JITENDRALAL BANNERJEE: Is the Hon'ble member in a position to deny that the object of the meeting was to discuss the provisions of the Bengal Money-lenders' Bill?

The Hon'ble Mr. W. D. R. PRENTICE: I would refer the hon'ble member to answer (*a*) (*ii*).

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state what is his "good ground" for supposing that the meeting would be utilised for advocating non-payment of rent?

The Hon'ble Mr. W. D. R. PRENTICE: The opinion of local officers is the good ground.

Babu JITENDRALAL BANNERJEE: Is it not a fact that members of this Council can obtain public opinion on measures introduced before this Council?

The Hon'ble Mr. W. D. R. PRENTICE: Yes; but if local officers are of opinion that the meeting should not be held, I think they are quite justified in acting upon such opinion.

Babu JITENDRALAL BANNERJEE: Such being the case, would local officers have any justification for interfering with a meeting held by a member of this Council for the declared purpose of discussing the Money-lenders' Bill?

The Hon'ble Mr. W. D. R. PRENTICE: The local officers must act on facts within their knowledge.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if it is illegal to discuss the question of non-payment of money-lenders' dues?

The Hon'ble Mr. W. D. R. PRENTICE: No, but it is not desirable to recommend that.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not a fact that the hon'ble member who wanted to hold the meeting issued an advertisement that it was for the definite purpose of discussing the Bengal Money-lenders' Bill, and, if so, what facilities were given by the local officers to the gentlemen who wanted to hold this meeting?

The Hon'ble Mr. W. D. R. PRENTICE: I would again refer the member to answer (*a*) (*ii*).

Khan Bahadur Maulvi AZIZUL HAQUE: What my point is, is this knowing full well that the meeting might be used for other purposes, did the District Officer consult the member with a view to restricting the business of the meeting to the Bill instead of stopping it altogether?

The Hon'ble Mr. W. D. R. PRENTICE: I want notice.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if permission was not asked for holding the meeting?

The Hon'ble Mr. W. D. R. PRENTICE: I do not know: I ask for notice.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether in future Government want to follow the policy of stopping such meetings or giving such facilities to members for discussing measures before the House?

The Hon'ble Mr. W. D. R. PRENTICE: No obstacles were raised by the local officers except what they considered were required by the circumstances.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if the local officers in this case consulted Maulvi Abdul Hamid Shah?

The Hon'ble Mr. W. D. R. PRENTICE: I ask for notice.

Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Member be pleased to state if Government is aware that printed leaflets were distributed showing the purpose of the meeting?

The Hon'ble Mr. W. D. R. PRENTICE: No.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member inquire into the matter in view of the statement that the declared object of the meeting was to discuss the Money-lenders' Bill?

The Hon'ble Mr. W. D. R. PRENTICE: I will inquire.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state whether any leaflets or printed matter were published showing the purpose of the meeting?

The Hon'ble Mr. W. D. R. PRENTICE: Government have no information as to the advertised purpose of that meeting.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if it is the intention or policy of Government to prevent non-official members of this Council from consulting their constituencies?

The Hon'ble Mr. W. D. R. PRENTICE: I have already answered a similar question put by Khan Bahadur Azizul Haque, and I would refer the hon'ble member to that answer.

Promotions of Moslem officers of Bengal Civil Service (Executive) and Bengal Junior Civil Service to selection grades.

*76. **Maulvi HASSAN ALI:** (*a*) Will the Hon'ble Member in charge of the Appointment Department be pleased to state—

(*i*) how many officers of the Bengal Civil Service (Executive), and

(*ii*) how many of the Bengal Junior Civil Service

have been promoted to the selection grade on Rs. 1,000 and Rs. 450,

respectively, since the introduction of the revised scale of pay for the members of Bengal Civil Service and Bengal Junior Civil Service in 1922?

(*b*) How many of such promoted officers are Mussalmans in each of the services?

(*c*) Is it a fact that only one Moslem officer has been promoted to the selections grades of the services up till now?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state what is the policy of Government underlying such promotion?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Forty-four to the selection grade of the Bengal Civil Service (Executive) and fifteen to that of the Bengal Junior Civil Service.

(*b*) Six in the Bengal Civil Service and one in the Bengal Junior Civil Service.

(*c*) No.

(*d*) Does not arise.

Terrorist crimes in Bengal.

*77. **Rai Bahadur KESHAB CHANDRA BANERJI:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing separately for each district the number of anarchist crimes committed in Bengal between November, 1931, and October, 1932?

The Hon'ble Mr. W. D. R. PRENTICE: A statement of terrorist crimes is laid on the table.

Statement referred to in the reply to starred question No. 77, showing (district by district) the number of terrorist crimes committed in Bengal between November, 1931, and October, 1932.

Bakarganj	...	7
Bankura	..	2
Birbhum	...	1
Bogra	...	2
Burdwan	...	2
Chittagong	...	4
Dacca	...	28

Darjeeling	...	Nil
Dinajpur	...	3
Faridpur	...	17
Hooghly	...	5
Howrah	...	3
Jalpaiguri	...	1
Jessore	...	3
Khulna	...	1
Malda	...	Nil
Midnapore	...	2
Murshidabad	...	4
Mymensingh	...	22
Nadia	...	Nil
Noakhali	...	Nil
Pabna	...	Nil
Rajshahi	...	4
Rangpur	...	8
Tippera	...	12
24-Parganas	...	3
Sealdah G. R. P.	...	1
Calcutta	...	11
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UNSTARRED QUESTIONS

(answers to which were laid on the table)

Jurors and assessors.

18. Maulvi ABDUS SAMAD: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that the lists of jurors, both common and special, and of assessors of different thanas are prepared by the police officers in charge of the respective thanas; and

(*ii*) that no inquiry is made by any higher authority as to the fitness of the persons, recommended by the police, to serve as jurors?

(*b*) Has it come to the knowledge of the Hon'ble Member that the power as given to the police is very often misused and that names of persons even unfit to serve as common jurors, are often included in the list of special jurors?

(*c*) Are the Government considering the desirability of—

(*i*) taking away the duty of preparing the lists of jurors from the police who are entrusted with the conduct of sessions cases;

(*ii*) giving the same to officers unconnected with the conduct of such cases; and

(*iii*) issuing instructions to the effect that, as far as practicable in the trial of a session case of a particular subdivision, the jurors and assessors other than those of that subdivision should be summoned and empanelled?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) So far as Government are aware this is not the usual practice.

(*ii*) No. The work is in charge of some selected gazetted officer on the district staff.

(*b*) No such power is given.

(*c*) (*i*) and (*ii*) Do not arise.

(*c*) (*iii*) No. The member is referred to section 326, Criminal Procedure Code.

Maulvi ABDUS SAMAD: Will the Hon'ble Member be pleased to state who is the person authorised to prepare the list of jurors and assessors?

The Hon'ble Mr. W. D. R. PRENTICE: The Collector in each district.

Maulvi ABDUS SAMAD: Will the Hon'ble Member be pleased to state who is the person who actually does it?

The Hon'ble Mr. W. D. R. PRENTICE: The Collector gets it done by officers on his staff, but the person who is responsible for it is the Collector.

Maulvi ABDUS SAMAD: Will the Hon'ble Member deny that such lists are prepared by police officers in charge of thanas?

The Hon'ble Mr. W. D. R. PRENTICE: Yes, I do.

Moslems in the Mymensingh District Judge's office.

19. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing at present—

(*i*) the total number of ministerial officers (excluding process-servers) holding permanent posts in offices under the District Judge of Mymensingh;

(*ii*) the total number of Muhammadan clerks holding such posts;

(*iii*) the total number of copyists working on allowance system;

(*iv*) the total number of Muhammadan copyists working on the said system; and

(*v*) the number of Hindu and the number of Muhammadan clerks appointed permanently and on probation in the offices under the said District Judge during the year 1932?

(*b*) Are the Government considering the desirability of appointing Muhammadans in future vacancies till the percentage fixed by the latest Government circular is reached?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) A statement is laid on the table.

(*b*) The percentage fixed by the Government circular has been reached.

Statement referred to in the reply to clause (a) of unstarred question No. 19, showing the number of Hindu and Muhammadan clerks in the offices under the District Judge of Mymensingh.

(*i*) Total number of ministerial officers (excluding process-servers) holding permanent posts in offices under the District Judge of Mymensingh—214.

(*ii*) Total number of Muhammadan clerks holding such posts—76.

(*iii*) Total number of copyists working on allowance system—64.

(*iv*) Total number of Muhammadan copyists working on the said system—22.

(*v*) Number of Hindu and the number of Muhammadan clerks appointed permanently and on probation in the offices under the said District Judge, during the year 1932—2 (Hindus).

Rajur Bandhab High English School.

20. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether Rajur Bandhab High English School, subdivision Katwa, district Burdwan, receives any aid from Government?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state whether the school is visited by the Inspector of Schools every year?

(*c*) When was the school last visited?

(*d*) Has the Inspector made any report on the following points, namely:—

(*i*) regular payment of teachers for more than one year;

(*ii*) maintenance of the acquittance roll; and

(*iii*) the reserve fund of the school?

(*e*) If the answer to (*d*) is in the negative, are the Government considering the desirability of holding an inquiry into the matters?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) It does not receive any aid from Government.

(*b*) Does not arise.

(*c*) On 14th August, 1931.

(*d*) (*i*) Yes.

(*ii*) No.

(*iii*) Yes.

(*e*) Does not arise.

Kazi EMDADUL HOQUE: Will the Hon'ble Minister be pleased to state, with reference to answer (*d*) (*ii*), if he is aware that the maulvi and the head pandit of the school have not received their pay for about a year?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The teachers were paid in full up to June, 1931.

Narayanganj town.

21. Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member in charge of the Irrigation Department be pleased to state what action, if any, is being taken on the representation of the Narayanganj Chamber of Commerce, dated the 19th October, 1932, about the

threatened danger to the southern part of the town of Narayanganj from erosion by the adjoining river?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): In May, 1932, Government sanctioned a contribution of Rs. 2,000 towards the cost of works for the protection of Narayanganj. The Narayanganj Chamber of Commerce has now asked Government to put in certain protective bandals at Government expense. The matter is under consideration and a report has been called for from the Superintending Engineer.

Deputy and Assistant Conservators of Forests.

22. Rai Bahadur SATYENDRA KUMAR DAS: (*a*) Will the Hon'ble Member in charge of the Revenue (Forests) Department be pleased to lay on the table a statement showing—

(*i*) how many Imperial posts (both Deputy and Assistant Conservators of Forests) have been allotted to Bengal;

(*ii*) how many of those Imperial officers are attached to the divisions as a Range Officer or Subdivisional Forest Officer;

(*iii*) what is the function of a Subdivisional Forest Officer; and

(*iv*) whether it is a fact that extra Assistant Conservators of Forests manage the works of a subdivision?

(*b*) If the answer to (*iv*) is in the affirmative, will the Hon'ble Member be pleased to state what is the necessity for maintaining Imperial officers in charge of subdivisions?

(*c*) Have the Government calculated the yearly saving if excess Imperial Service officers of less than 10 years' service are dispensed with or removed to other provinces where there is vacancy? If so, what would be the saving?

MEMBER in charge of REVENUE (FORESTS) DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) (*i*) 20 (excluding the two India list posts).

(*ii*) Two. One is a Range Officer and the other a Subdivisional Officer.

(*iii*) A statement is laid on the table.

(*iv*) Yes.

(*b*) Because Imperial Service officers cannot be placed in charge of divisions from the beginning of their service. They must be trained in lower posts first.

(c) There is no excess I.F.S. officer in this Presidency outside the sanctioned cadre.

Statement referred to in clause (a) (iii) of unstarred question No. 22 showing duties of the Subdivisional Forest Officer.

(*i*) The Subdivisional Officer will be responsible for the carrying out of the provisions of the Working Plan within his charge.

(*ii*) He will compile and maintain such records as are prescribed in connection with (*i*) above, including Felling Series Registers and Control Forms.

(*iii*) He will be responsible for the protection of the forests in his charge, and will have power to compound offences.

(*iv*) All research and experiments within the subdivision will be in his charge and the records of the same will be maintained by him.

(*v*) The Subdivisional Officer will have no cash transactions and no cash accounts. The Range accounts will be submitted to him for scrutiny and he will sign a certificate similar to that prescribed in article 64 of the Forest Account Code before forwarding them to the divisional office for compilation. He will take such notes, extracts or copies of the forms as are required for use in his office.

(*vi*) The Subdivisional Officer being an experienced Range Officer will advise and instruct the Range Officers under him. He should not be merely an inspecting officer, but should himself carry out such work calling for technical skill as he is able to.

(*vii*) The posting and transfer of all officers subordinate to the Subdivisional Officer except Range Officers will be done by the Subdivisional Officer—formal sanction of the Divisional Forest Officer being obtained when necessary. The Subdivisional Officer will endeavour, by the judicious handling of the staff at his disposal, to secure the maximum of efficiency from them.

(*viii*) The diaries of all officers subordinate to him will be submitted to the Subdivisional Officer and only those of the Range Officers forwarded to the Divisional Forest Officer. The travelling allowance bills of all officers subordinate to him will be scrutinised by the Subdivisional Officer and forwarded to the Divisional Forest Officer for passing.

(*ix*) The Subdivisional Officer will submit confidential reports on officers subordinate to him above the rank of Forest Guard, and will maintain a record of confidential reports on all other officers subordinate to him.

(*x*) All correspondence with the Divisional Forest Officer regarding the subdivision will be with or through the Subdivisional Officer.

(*xi*) The Subdivisional Officer will inspect his Range offices at least twice a year and copies of his inspection reports will be sent to the Divisional Forest Officer.

Duty on spirituous medicines.

23. Rai Bahadur Dr. HARIDHAN DUTT: (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries (Excise) Department be pleased to state what is the rate of customs duty on imported medicines containing spirit?

(*b*) Is it a fact that Bengal Government levy an excise duty of Rs. 5 per proof gallon in case of medicines manufactured in Bengal with Indian spirit?

(*c*) Is this practice the same as prevailing in the Bombay and Madras Presidencies?

(*d*) Is it a fact that Bombay and Madras Governments realize duties on spirituous medicines imported into those provinces from other provinces like Bengal, the Punjab, etc.?

(*e*) Is it a fact that the Bengal Government do not realize any excise duty on spirituous medicines imported from other provinces?

(*f*) Is it a fact that the other provinces of India, *e.g.*, the United Provinces, Delhi, the Punjab, the Central Provinces, Rajputana, Bihar and Orissa, etc., do not levy any duty on spirituous medicines coming from outside those provinces?

(*g*) Is it a fact that Bengal manufacturers can send spirituous medicines to Bombay and Madras only under special excise permits, and in all such cases the duty is realized by the province which receives the goods?

(*h*) Is it a fact that manufacturers in Bengal may freely export spirituous medicines to other parts of British India like the United Provinces, the Punjab, etc., and in these cases excise duty is realized and retained in Bengal?

(*i*) Is the Hon'ble Minister aware that the Government of Punjab are contemplating to forego duty on spirituous medicines?

(*j*) If the answers to (*e*) and (*i*) are in the affirmative, has the Hon'ble Minister realised that—

(*i*) the costs of spirituous medicines in the Punjab will be much less than in other provinces; and

(*ii*) there will be a large influx of spirituous medicines from the Punjab into Bengal?

(*k*) If the answer to (*j*) is in the affirmative, will the Hon'ble Minister be pleased to state whether—

(*i*) it will cause a heavy loss of excise duty to the Bengal Government; and

(*ii*) whether the cheap price of spirituous medicines of the Punjab will seriously and adversely affect the export trade of Bengal in spirituous medicines to places like the United Provinces, etc., resulting in the loss of excise revenue to the Bengal Government and giving the manufacturers and dealers of the Punjab a great advantage over the markets of Bengal, the United Provinces, Bihar and Orissa, etc.?

(*l*) Are the Government considering the desirability of prohibiting the entry of spirituous medicines from other provinces unless duties are paid to Bengal following the practices of Bombay and Madras Governments?

(*m*) If so, what effective steps do the Government propose to prevent the entry of such goods into Bengal?

(*n*) If the answer to (*l*) is in the negative, do the Government contemplate abolishing the excise duty on medicinal preparations in Bengal, also of taking steps for the prevention of loss of excise duty and to protect the industries in Bengal interested in spirituous medicines?

MINISTER in charge of AGRICULTURE and INDUSTRIES (EXCISE) DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) The current rate of customs duty on imported medicines containing spirit is—

(*i*) if entered in such a manner as to indicate that the strength is not to be tested, Rs. 37-8 per Imperial gallon;

(*ii*) if not so entered, Rs. 27-5-6 per Imperial gallon.

(*b*), (*c*) and (*d*) Yes.

(*e*) Yes, but the import into Bengal of spirituous medicinal preparations manufactured in other provinces is almost negligible.

(*f*), (*g*) and (*h*) Yes.

(*i*) to (*n*) Government have no information from the Government of Punjab that they are contemplating foregoing excise duty on spirituous medicines manufactured in that province, but in view of the fact that the Bengal Chamber of Commerce have suggested to Government that this is actually under contemplation, the Excise Commissioner has been asked to make inquiries and report the result to Government as soon as possible. On receipt of this report, such steps as seem necessary, will be taken.

Rai Bahadur Dr. HARIDHAN DUTT: With reference to answer (*k*) (*ii*), will the Hon'ble Minister kindly say what time in his opinion would be required before the report is likely to be obtained?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: It lies with the Government of the Punjab; it is not for me to say when it is likely to be out.

Rai Bahadur Dr. HARIDHAN DUTT: I just wanted to know the probable date when the report would be out.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Any opinion that I might give would be purely imaginary.

Rai Bahadur Dr. HARIDHAN DUTT: Will the Hon'ble Minister kindly state whether there is any co-ordination between one province and another in the imposition of these excise duties?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: There is no scheme of co-ordination so far as I know.

Demands for Grant.

(The discussion under the head "47—Miscellaneous" was then resumed.)

Point of order.

Mr. SHANTI SHEKHARESWAR RAY: Sir, I rise to a point of order, in connection with the demand under the head "47—Miscellaneous" moved by the Hon'ble Mr. Woodhead and I pray for a ruling from you, Sir, on the point whether the Hon'ble Mr. Woodhead is in order in placing this demand before the House. There are two points: the first point is: it includes a token demand for Re. 1 in connection with expenditure on the military forces. Now, Sir, if you please refer to the Devolution Rules, Part I Schedule I (page 133 of the Bengal Legislative Council Manual, 1927), you will find that (*a*) defence of India and all matters connected with His Majesty's naval, military, and air forces in India and (*b*) naval and military works and cantonments are central subjects. So any demand in this connection should rather be made in the Legislative Assembly. I ask for a ruling from you whether this demand should be placed before the Legislative Assembly or this Council.

My second point is this: The Hon'ble Member has brought in the two demands together and I ask whether in asking for a supplementary grant, in connection with new subjects, he is in order in seeking the sanction of the House to a token demand. If you refer to page 307 of the Manual, you will find that under rule 94 an estimate shall be presented to the Council for a supplementary grant or additional grant when a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year. I ask, Sir, whether in the absence of such an estimate this token demand is permissible.

Mr. PRESIDENT: I should like to hear the Hon'ble the Finance Member before I decide the point.

The Hon'ble Mr. J. A. WOODHEAD: The first point raised by the hon'ble member deals with a question of classification: should the expenditure covered by the demand be classified as expenditure on a central or provincial subject. I should explain that the expenditure which the Council is asked to approve is not expenditure which would be incurred were the troops at their ordinary stations. That expenditure is being borne by the Central Government. The expenditure which the Council is asked to approve is the additional—and even then only a share of that additional expenditure incurred by the stationing of the troops in Bengal in support of the Civil Power to assist in the maintenance of law and order. Sir, I am of opinion that it is not incorrect to classify this additional expenditure incurred for the maintenance of law and order as provincial. Similar expenditure has in the past been debited to provincial revenues.

With regard to the second point, the demand relates to expenditure under one head "47—Miscellaneous." I see nothing irregular in moving for one demand for expenditure under one major head, although the expenditure may relate to two different items.

Mr. PRESIDENT: Are you satisfied with this answer to your point of order?

Mr. SHANTI SHEKHARESWAR RAY: No, Sir; I submit that the Government of Bengal have no discretion in the matter at all, because it is clearly laid down that no matters connected with the army can come up before a local legislature. We cannot discuss any action of oppression by operation of the troops nor can we make any demand for grant in connection therewith.

Mr. PRESIDENT: Could the Hon'ble Member cite any precedent in justification of his case?

The Hon'ble Mr. J. A. WOODHEAD: On previous occasions expenditure of this nature has been debited to provincial revenues. Although I speak subject to correction I believe I shall be correct in saying that such was the case in regard to the troops employed during the Calcutta riots of 1926 and on the occasion of the riots at Kharagpur.

Khan Bahadur Maulvi AZIZUL HAQUE: An important point has been raised by my friend and it is this: Can this House discuss the working of the army so far as provincial utilisation is concerned? In this case the army has been used for the provincial purposes and a budget is presented to the House and the question before the House is—can we sanction that demand and, in doing so, can we exercise our legitimate right of criticising the activities of the troops? That is a definite point and I think this matter should be settled by a ruling from the Chair.

Mr. SHANTI SHEKHARESWAR RAY: May I make another submission, Sir? This could only be done if there had been a notification by the Government of India making all these subjects a matter of provincial concern. If you will refer to page 143, Devolution Rule 51, you will find that there are certain subjects which, though central, may constitute a matter of provincial concern by a Government notification, such as survey of minor air routes, maintenances of flying services, etc., but in this case no such notification has been issued.

The Hon'ble Mr. J. A. WOODHEAD: Sir, I may say that the Central Government have never raised any objection to expenditure of the nature in question being debited to provincial revenues, nor has the classification of such expenditure as expenditure debitable to provincial revenues been challenged in audit. I hope this explanation will satisfy the hon'ble members.

Mr. PRESIDENT: If I understand aright, this action appears to be based upon precedents. If Government had taken similar action in the past with the concurrence of this House, I think that precedent should guide us now unless it can be established that there has been any serious breach of any rule binding on this House or if there is any serious irregularity against which the House may legitimately complain. I do not think that the hon'ble member who has raised this point of order is in a position to say that no such precedent was created by this Council or that there has been any serious irregularity in the procedure adopted by the Hon'ble Finance Member in bringing forward the motion under review.

Mr. SRANTI SHEKHARESWAR RAY: My submission is that simply because I did not refer to any precedent, is it your ruling that I cannot raise this point of order?

Babu JITENDRALAL BANNERJEE: On a point of order, Sir. Has the Hon'ble Member cited any precedents?

Mr. PRESIDENT: Yes; will the Hon'ble Member be also pleased to state whether any arrangement was arrived at between the Local Government and the Central Government with regard to the employment of these troops in this province at the expense of the Local Government?

The Hon'ble Mr. J. A. WOODHEAD: I think I have made the point quite clear.

Mr. B. C. CHATTERJEE: The action of Government is *ultra vires*.

Mr. A. K. FAZL-UL HUQ: On a point of order, Sir.

Mr. PRESIDENT: Let this question be first disposed of.

Mr. A. K. FAZL-UL HUQ: Sir, if Government did anything in the past which was *ultra vires*, would that be a justification for doing the same thing at the present moment?

Mr. PRESIDENT: I would at once say "no." But the point is that the House did not take any exception in the past, which indicates clearly that Government acted in a manner to which exception was not taken by the local legislature—that itself is a strong point in favour of the Hon'ble Finance Member. Then, again, the Local Government has to act in a matter like this with the concurrence of the Central Government by arrangement. The question is whether any such arrangement was arrived at between the Local Government and the Central Government. The Hon'ble Member avoided that question when I first put it to him, but I must have an answer on the point—it is of vital importance.

The Hon'ble Mr. J. A. WOODHEAD: Yes, certainly, Sir. We have had correspondence with the Central Government on the allocation of costs, and the correspondence is still proceeding. I submit, Sir, that it is not suggested that it is unconstitutional to incur any charges on account of the maintenance of law and order by these troops. And I should like to point out that the maintenance of law and order is a provincial subject.

Mr. NARENDRA KUMAR BASU: Sir, may I draw the attention of the Hon'ble Member to rule 51 at page 143 of the Bengal Legislative Council Manual? Rule 51 says—

"Any matter which, though falling within a central subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province."

Sir, there is no such declaration so far as this question is concerned. It is quite true that there may have been private discussion or correspondence between the Local Government and the Central Government; but what I would point out is that there is no declaration specifically made by the Governor-General in Council on this behalf. And we do not know under what circumstances the precedents referred to by the Finance Member took place. It may be that there was a declaration for a specific purpose. But there is no declaration now and I submit, Sir, that the precedents which have been referred to by the Hon'ble Mr. Woodhead in a vague manner ought not to guide us in coming to a decision. Of course, I would not touch upon anything which is beyond our province.

Mr. PRESIDENT: Conceding for argument's sake that the present case comes under the operation of the rule just cited, would you tell me what is the exact significance of the word "declare"? As regards this rule, as far as I understand it, I am open to correction—it does not specify in what particular manner the Central Government has got to declare it. Why an official communication from the Central Government to the Local Government concerned could not be characterised as a "declaration" for the purposes of this rule?

Mr. NARENDRA KUMAR BASU: Sir, I submit that the foot-note to rule 51 makes the position quite clear. You will find from this foot-note that all such declarations should be made by notifications either in the *Calcutta Gazette* or the *Gazette of India*.

Mr. PRESIDENT: I have serious doubt as to whether the rule can be legitimately applied to the case under revision; but is there anything in the body of the rule to show that the declaration cannot be made in any other form? What is really the object of this declaration? As far as I understand it, the declaration must be such as may give the Local Government authority to act in the matter.

Mr. NARENDRA KUMAR BASU: No, Sir. The declaration has to be made by the Governor-General in Council.

Mr. PRESIDENT: I was talking of principle and not form. But you must consider the circumstances of the case and decide if the rule is applicable at all in the present case and that in the form prescribed in the foot-note.

The Hon'ble Mr. J. A. WOODHEAD: Sir, as I have said before, this question is one of classification. It can be debited either to the Central or the Local Government. Troops have been used for local purposes, and so far the Auditor-General or the Accountant-General has not raised any objection. Sir, this is expenditure outside the ordinary expenditure on these troops beyond the ordinary maintenance charges for these troops. This expenditure is being incurred on account of the troops stationed in Bengal at the request of the Local Government for local and provincial purposes.

Mr. PRESIDENT: May I know from the Hon'ble Member if it is not an expenditure incurred in connection with the maintenance of law and order in this province, and whether that is not a matter of provincial concern?

The Hon'ble Mr. J. A. WOODHEAD: It is certainly a charge for law and order, and one which is of provincial concern.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of information, Sir. Is it not a fact that the troops maintained by the Government of India are meant to be utilised for the purposes of war——

Mr. PRESIDENT: You are complicating matters.

Khan Bahadur Maulvi AZIZUL HAQUE: The question which you have raised is whether they are for the purpose of law and order——

Mr. PRESIDENT: I raised a very simple point. My point was that the Government of India is the only competent body which can object to troops being used for local purposes without their concurrence and that it is within the competence of the Local Government to come to this House for any expenditure for the maintenance of law and order within the province which is its concern. The Hon'ble Member has assured us that the Local Government is acting in this matter for the maintenance of law and order with the concurrence of the Central Government. My ruling is that this motion is in order.

Mr. NARENDRA KUMAR BASU: What about the second point, Sir?

Babu JITENDRALAL BANNERJEE: Might I put a question, Sir? It is whether a provincial Government has the right to allocate provincial revenues or to make demands of the provincial legislature for the allocation of provincial revenues for army purposes.

The Hon'ble Mr. J. A. WOODHEAD: They are not being used for army purposes.

Mr. PRESIDENT: I think that answer of the Hon'ble Member is very definite.

Mr. B. C. CHATTERJEE: On a point of order, Sir. The army is there for maintaining internal order, and ordinarily the Government of India have to incur the expenses for the maintenance of internal order. So far as I understand you, Sir, the Local Government can, with the permission of the Government of India, employ the army for maintaining law and order in any province. I think I have clearly stated your viewpoint. Now, Sir, my point is that that concurrence has got to be "declared." Sir, I submit that unless you do utter violence to the word "declaration" it cannot mean private correspondence between the Government of Bengal and the Government of India. "Declaration" means announcement in some Gazette.

Mr. PRESIDENT: I am afraid I cannot agree with you. If the Hon'ble Member takes upon himself the responsibility to declare that the Local Government have the support and concurrence of the Government of India, and have been authorised to use the troops for the maintenance of law and order in this province and not for typical army purposes, I must hold that it is a matter which is absolutely a provincial concern.

Mr. NARENDRA KUMAR BASU: If you will kindly turn to page 307 of the Bengal Legislative Council Manual, there is a proviso to rule 94 which reads as follows:—

"Provided that when funds to meet proposed expenditure on a new service can be made available by reappropriation, a demand for the grant of a token sum may be submitted to the vote of the Council, and if the Council assents to the demand, funds may be so made available."

But we find in the memorandum circulated to the members of this House by Mr. Blandy, that the two lines are—

"A demand for a definite sum will be put before the Council when the probable expenditure is more accurately known."

That is to say, the expenditure is to be met not by reappropriation. That being so, Sir, I submit that the demand for a token grant cannot be made under these circumstances.

The Hon'ble Mr. J. A. WOODHEAD: Sir, I might remind the House that Mr. Basu is a member of the Public Accounts Committee and I should like to know what would be his attitude if Government did not at the earliest possible date come to this Council and ask their approval for emergent expenditure. If such expenditure is incurred without coming to the Council at the earliest possible date, what will be the position of the Government *vis a vis* the Council? Expenditure has already been incurred and the memorandum seeks to explain the necessity of Government coming up to this House for a token sum of Re. 1. Of course if the Council desire that Government should not in the future come forward with a token grant in order to give them the earliest possible notice of new expenditure, the Government will not do so.

Mr. NARENDRA KUMAR BASU: May I point out that the reasons given by the Hon'ble Mr. Woodhead are for changing the rule and not for violating the rule? The rule is there.

Mr. PRESIDENT: Your point is that when such an expenditure has got to be met by reappropriation, a token cut is permissible; not otherwise.

Mr. NARENDRA KUMAR BASU: Yes.

Mr. PRESIDENT: This token grant does not preclude the Hon'ble Member from either presenting an estimate afterwards or from meeting this expenditure by reappropriation. Does it?

Mr. NARENDRA KUMAR BASU: No, Sir.

Mr. PRESIDENT: The Council is only asked to express an opinion as to whether a certain amount of money should or should not be sanctioned for the purpose of maintenance of law and order by employing military forces. That, as I understand it, is the object of the token grant.

Mr. NARENDRA KUMAR BASU: The difficulty is that I have not made myself understood. If you will kindly look to rule 94, you will find that an estimate shall be presented to the Council for a supplementary or additional grant when a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year. This is a new service and ordinarily under this rule an estimate should

be presented to the Council, but in the proviso it is said that if the funds can be met by reappropriation and not by a separate demand from the Council, then it can be by a token demand. As I pointed out, the memorandum of the Finance Department points out in the third paragraph that the total expenditure in the current year would be Rs. 11,00,000.

Mr. PRESIDENT: Order, order. I have already pointed out to the Council that this token demand does not preclude the Hon'ble Member either from bringing forward on some future occasion a full budget motion for grant of a definite sum based on an estimate or meet this expenditure by reappropriation. Both the ways will remain open to him in spite of the token grant; so no exception need be taken to it.

Mr. NARENDRA KUMAR BASU: That is not the point.

Mr. PRESIDENT: I am afraid you will again refer to Mr. Blandy's memorandum, but I am more concerned with the motion itself. Is there anything in the motion itself which makes the motion *ultra vires*?

Mr. NARENDRA KUMAR BASU: I am reading the memorandum for the purpose of showing that under the rules of this Council the only way in which a token demand can be made is where the estimates are known or where the expenditure can be met by reappropriation.

Mr. PRESIDENT: Take, for instance, that a token grant is brought before this Council and that token grant is passed by the Council, but the Government cannot, it subsequently finds, meet the expenditure by reappropriation; cannot Government come to the House again with a specific motion for a grant based on an estimate, a complete estimate, which Government may place before the House for its scrutiny?

Mr. NARENDRA KUMAR BASU: My submission is that if the Government is in error and later on finds that it cannot meet the expenditure by reappropriation, then it must say so and bring forward a specific motion for a grant. But when it begins by saying that it cannot meet the expenditure by reappropriation, can it bring a motion for a token grant?

The Hon'ble Mr. J. A. WOODHEAD: The memorandum does indicate the expenditure likely to be incurred. It is not a complete estimate.

Mr. PRESIDENT: Do you then take your stand upon the memorandum?

The Hon'ble Mr. J. A. WOODHEAD: May I point out that rule 34 requires that a demand for a supplementary grant shall be made in certain circumstances and the proviso says that a demand for the grant of a token sum may be submitted to the vote of the Council? The reason why this token sum has been brought before the Council is to inform the Council at the earliest possible date of the expenditure which is being incurred on a new service and to obtain the approval of the Council to that expenditure. That is perfectly reasonable and if we acted otherwise, I am sure that Mr. Basu as a member of the Public Accounts Committee would take strong objection if Government incurred expenditure on a new service and did not approach the Council for sanctioning that expenditure at the earliest possible date. In the memorandum we have put forward a rough estimate. We do not know what the actual expenditure is likely to be and, therefore, the only alternative for us was to approach the Council for a token sum and I still maintain that this is a perfectly correct procedure.

Mr. SHANTI SHEKHARESWAR RAY: Thus to give you a blank cheque.

Khan Bahadur Maulvi AZIZUL HAQUE: On a point of order.

Mr. PRESIDENT: I might tell you that the guillotine falls at 4-22 so far as the subject matter before the House is concerned. If you are inclined to spend more time on the question of admissibility of the motion no time will be left to be devoted to its consideration. I am chiefly concerned with the motion itself and I think the motion itself, as it stands, is in order. I refuse to take into consideration the memorandum in deciding the admissibility of the motion. The token demand, as worded, is permissible and as I have already said it does not preclude the Hon'ble Member either from meeting this expenditure by reappropriation or from approaching this House later on with a specific motion for a grant based on an estimate.

Mr. P. BANERJI: It is an important question and there is not much time left for its discussion.

Mr. PRESIDENT: It is so, but that is not my fault.

Maulvi SYED MAJID BAKSH: My point has not been cleared as to whether the declaration should be made publicly or privately. (Laughter.)

Mr. P. BANERJI: I beg to move—

that the demand for Rs. 2,10,001 under the head "47—Miscellaneous—Miscellaneous and unforeseen charges" be reduced by Rs. 2,10,000; and

that the demand for Rs. 2,10,001 under the head "47—Miscellaneous—Miscellaneous and unforeseen charges" be reduced by Rs. 101 (to raise a discussion about the recent unnecessary harassment by police and excesses by military police).

As much time has been lost in discussing the point of order, I will not take up a long time in moving my motion. So far as my motion for the reduction of the demand for Rs. 2,10,001 by Rs. 2,10,000 is concerned. My point is that after hearing so much from Government we have now come to the definite conclusion that we could have done without this expenditure at all. This amount is sought for to meet the expenditure in connection with the Criminal Amendment Act, but I may point out that it is a criminal waste of money. It is often found that detenus are often detained without any trial, without sufficient evidence, only depending on the evidence of the police. In most cases I am definite that there is no charge against these people. Government are ignoring the judiciary in these cases. There are thousand and one instances and in one instance one Birendra Nath Das who was an accused in a dacoity case, was acquitted by the trying court, but as soon as he was released, he was arrested under the Criminal Law Amendment Act. May I inquire of the Government what offence this man committed during the time when he was released by the court and re-arrested by the police? Possibly he committed no offence during that time. I consider that in some cases persons are arrested and harassed for nothing at all, but still Government come forward and ask for money for keeping them under detention. I consider this to be an unnecessary waste of money.

There is another point and that is about the military. We consider that if the military has been brought in for the purpose of maintaining law and order, the police should be discharged altogether because they have failed to do their duty and the country should be ruled by the military.

Mr. PRESIDENT: Have you moved both your motions and are you making one speech on both?

Mr. P. BANERJI: Yes. You know what happened in Chittagong. Therefore I will not say anything about the excesses of the military

there. In Mymensingh there are 200 men who go about and take any foodstuffs they require from the shops without paying for them, although Government pay them for the purchase of their foodstuffs.

The Hon'ble Mr. W. D. R. PRENTICE: Does Mr. Banerji take personal responsibility for this statement?

Mr. P. BANERJI: It will be in the recollection of the members of this House that the military in Mymensingh entered some houses and compelled the girls to come before them and make them sing. If the Hon'ble Member will kindly make an inquiry, he will find that the girls have been made to sing.

4 p.m.

Then, Sir, from there I come to Midnapore and I would relate one incident which happened there to a lawyer who was coming from the civil court to the criminal court. His name is Babu Sudhamoy Banerji. What happened was that he was going on a cycle when a military party was passing by. They kicked the cycle and the gentleman was injured. I would give another instance of their meddling in things with which they had nothing to do. They were going about asking the people to vacate their houses. The people were harassed for nothing. I consider that this military force is not doing any useful service and, therefore, under the circumstances there is no necessity for incurring this expenditure either in connection with the administration of the Bengal Criminal Law Amendment Act or for the stationing of military force.

Mr. HASSAN ALI: Sir, I beg to move that the demand of Rs. 2,10,001 including a token sum of Re. 1 (*1*) to cover the expenditure in excess of the voted grant on account of persons dealt with under the Bengal Criminal Law Amendment Act, 1930, as amended by the Bengal Criminal Law Amendment Act, 1932, and detained outside jails in Bengal and (*2*) to meet the expenditure of the miltiary force stationed at Chittagong and at other places in Bengal, be reduced by Rs. 101 (to criticise the policy of Government with regard to stationing of military force in various places of Bengal, and incurring unnecessary expenditure thereby, in this hard economic crisis in the country).

Sir, I want to know what is the policy of Government underlying their action in stationing military forces in various places of Bengal. One can understand very well the utility of stationing Intelligence Branch police or Criminal Investigation Department police in various parts of the province to tackle the terrorist crimes and revolutionary

movements in the country, but, Sir, I do not understand what is the necessity for stationing these Gurkha soldiers in rural places like Saidpur and other parts of the province where there is no such things as the terrorist menace. I, therefore, think, Sir, that in these hard times this sort of expenditure is useless and unnecessary and is a sheer waste of money.

Maulvi ABUL KASEM: Sir, I rise to support the motion of my friend, Mr. Hassan Ali. Sir, the other day my friend, Mr. Shanti Shekhareswar Ray, raised his objection to, and protested against, the imposition of collective fine on the Hindus of Chittagong and, Sir, I rise to-day to protest against the fine that has been imposed upon the people of whole Bengal from Chittagong to Burdwan. I say there is no justification for the imposition of this fine in order to meet the additional expenditure incurred to fight terrorism or for the allocation of military forces in Bengal. This is nothing less than imposing a fine on the whole of Bengal. And, Sir, we are fined for what? Is it for any crime on our part or is it due to the inefficiency of the administration? Sir, Chittagong has earned an unenviable notoriety. First, there was the outbreak of anarchical crime in the shape of the Armoury raid and, secondly, the outrage at the Railway Institute. And, Sir, the notoriety for all these black deeds has been enhanced by the not very human deeds of the executive in the administration of law and order in Chittagong. Sir, I am not the least concerned with the opinion of an ex-Commissioner of a division or with the opinion of the sitting member of the division; I am concerned with the general opinion of the man in the street who finds that here is a government on which all the powers they demand have been conferred and to whom all the money that they want is furnished, and still they are unable to cope with a handful of terrorists who are making the lives and properties of persons unsafe in this province. Sir, terrorism is not a new thing either in the world or in India. In 1897 anarchism first made its appearance in India in the Western Presidency. It was at once dealt with. I remember, and it is within my knowledge, that in 1908 a great conspiracy for anarchical crimes was unearthed in the town of Calcutta. Bombs and other explosives were manufactured in a garden, but the efficiency of the police was such that they found out the conspiracy before any mischief was done. On the 21st February, 1915, a general rising of the revolutionaries was apprehended in Bengal. That was also nipped in the bud and it was due to the efficiency of the police. But, Sir, in this year of grace, 1932, anarchism has spread all over the province and specially in the district of Chittagong where the Government and the people had the experience of a raid by the terrorists followed by another one within a couple of years, when men, women and children were injured. But what action have the Government taken?

Government will perhaps say "we want money" and we will impose fines on the people of Bengal for the crimes of the people of Chittagong. Why should the people of Nadia or Midnapore or Barisal, where there is no such crime, be fined for the crimes in Chittagong?

Sir, the expenditure on the police has gone up by leaps and bounds. I would respectfully ask the Finance Member to read the budget of 1913—the year I first entered the Council as reconstituted under the Minto-Morley Reforms. You will find that in 1932 the police expenditure is as much as eight times the expenditure in 1913. I submit, Sir, that the people should not be made to suffer for the inefficiency or want of ability and capacity on the part of those who run the administration. Now, Sir, coming to Chittagong we have been told by Mr. Prentice that all the allegations made about the indignities inflicted upon men and women are baseless and not correct, because a leading gentleman of Chittagong had come and told him that there was no excitement in the local town, but that excitement and agitation were created by Calcutta Muhammadans acting on the advice of Congress men and, therefore, they were all manufactured. I ask, Sir, what interest have the Calcutta Muhammadans to go and fan the flame at Chittagong. Have the Muhammadans either of Chittagong or Calcutta ever joined hands with the terrorists and anarchists or the Congress people or have they ever taken any part in their agitation? Why should the Muhammadans, who are admittedly non-Congress and some of whom like myself deadly anti-Congress, all on a sudden join hands with them? Sir, the fact, as presented to us, is simply staggering. We are told that under the influence of the Congress Muhammadans of Chittagong and Calcutta this agitation has been started. But, Sir, the first intimation the Muhammadans of Calcutta received of the incidents in Chittagong was from a copy of a telegram sent to His Excellency the Governor by the Chittagong Muhammadans. Sir, although I have gone to Chittagong, I have not much experience of the city, and I do not know if there is any appreciable number of Muhammadans connected with the Congress in Chittagong. I have one word to say and that is that it has not been denied that ladies were examined and searched by policemen and other men in Chittagong. I do not think, Sir, that for a conservative Muhammadan like myself there can be any greater indignity to my community than that our ladies should be searched by policemen. The only justification that was put forward was this: that information had been received that some absconders were hiding there, but although the information was wrong——

Mr. PRESIDENT: Order, order. I think the Hon'ble Member in charge of the department concerned should be given an opportunity to reply and there is hardly enough time left for him to do so.

Maulvi ABUL KASEM: I want to remind the Hon'ble Member that it is good measures that curb the fanatics and their activities and bad measures that drive peaceful citizens into the ranks of the revolutionaries. I hope and trust that the Government of Bengal in their wisdom will not drag us into the fold of anarchists and terrorists.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, Mr. Banerji, as usual, has again made himself the mouthpiece of unsubstantiated allegations and I think he might take a warning from one of the answers given to a question to-day where a member of this Council referred to certain allegations that appeared in the papers and in reply we were able to point out that the allegations, as published in the press, were entirely unfounded and the paper concerned withdrew the allegations and apologized for publishing the same. There are many such instances of unfounded allegations; for instance, the allegations about some incidents at Dacca. I met the Vice-Chancellor of the Dacca University and asked him about them and found that a great deal of the allegations were of the same character as those referred to in the question which I just mentioned and were absolutely unfounded. Now, Sir, it has been asked what is the need for sending troops to Chittagong and other places in Bengal. Surely the answer to that is that you have various lines of defence. In normal times your main line of defence is the police, but it is always recognized that behind the police is the army and the civil authority may call upon the military to support them in the maintenance of law and order. It is the bounden duty of every Government, when it thinks that the forces at its disposal are insufficient for the work to be done, to apply to the Government of India for the services of the military for the maintenance of law and order, and that is what has been done in Bengal.

4-15 p.m.

Maulvi Abul Kasem complained bitterly that as a Government we have failed. But if we have failed, we have failed not from want of effort. I do not think Maulvi Abul Kasem would ever claim, or try to argue, that there has been a lack of effort on the part of the police authorities in Bengal to deal with this menace. He has referred to what happened in 1915. In that case, Sir, surely my answer would be that the menace now is much more widespread and much more deep-rooted than it was 17 years ago. In 1915, he said, the police were able to cope with certain plots and stop various outrages. But is he not aware of cases that have occurred recently—cases which have been successfully prosecuted in a court of law and which, but for the timely action taken by the police, would have ended in fresh outrages being committed? The same work which went on then is going on now, but the movement being

more widespread and deep-seated and its ramifications being wider and wider, it is a much bigger problem to tackle. In the case of Chittagong the local officers were of opinion that the situation there had got beyond civil control and that it was necessary to call in the aid of the military in support of law and order; and that was what was done.

As regards the rest of Bengal, you have the communiqué issued by the Government of India at the time when they decided to send troops down to Bengal. I was then on leave, gentlemen, but you were in Bengal and must know the state of Bengal at that time and what had happened. A series of murders and outrages had been committed. Surely, in these circumstances the civil Government were perfectly justified in asking the military to supply the additional support required to comfort and encourage the loyal inhabitants of Bengal and to keep the waverers straight and to help the police and the civil authorities in dealing with this widespread menace. I admit that it is unfortunate that some of the charges for the use of the troops should fall upon this province in these hard times. But if any member thinks that all the charges on the military are paid out of the provincial revenues, they are entirely wrong. The Army Department will be paying them their usual pay and other charges that they would ordinarily pay for these troops, as if they were at their own military station. All that we are paying is the additional expenditure required for certain arrangements which were necessary owing to the transfer of those people from their permanent stations to their temporary stations, in Bengal in support of the civil authorities.

A great deal of discussion has taken place this afternoon as to the justifiability of these charges being met from the provincial revenues; but as the Hon'ble Mr. Woodhead told you, and as is also within my knowledge, in 1926 and on various other occasions the army authorities have billed the Local Government for certain incidental charges in connection with the arrangements by which troops were sent at the request of the Local Government for local purposes, and it is only the money for these charges that I am asking from this Council.

I do not think that any member of the Council who has any knowledge of the state of affairs in the districts of Bengal, can entertain any honest doubt as to the need for the steps that were taken. Mr. P. Banerji in his usual way has referred to Mymensingh. Well, I met the Magistrate of Mymensingh yesterday who came down to attend the *Durbar* to receive an Honour, and he told me of the state of Mymensingh and how popular the troops there were. There are members of Council here from Mymensingh, but not one of them has made any allegation about oppression by troops in Mymensingh. Now it remains for Mr. P. Banerji to rake up all the muck he can find, and make, on his own responsibility, unsubstantiated allegations against the troops in Mymensingh and elsewhere.

Mr. P. BANERJI: I threw out the gauntlet the other day and it was for the Hon'ble Member to pick it up, but he did not.

The Hon'ble Mr. W. D. R. PRENTICE: This demand for the détenus—I now refer to the other portion of the grant—is a demand for an extra grant, due to the unfortunate increase in the number of détenus. We now find that we were too optimistic in our original estimate. When we framed our budget, we provided for 600 to 800 détenus, but now their number has increased to 1,200 and is going up by 50 or 60 a month; in these circumstances, the grant that has been provided has proved totally insufficient. We are thus compelled to ask for more money, due to the increase in the number of détenus. The allowances of the détenus were revised lately and every possible effort has been made in the direction of economy. We do not want to spend any more money than we need, but so long as our hands are forced, we cannot but incur the necessary expenditure on these détenus and we hope the Council will support us.

The motions of Mr. P. Banerji were put and lost.

The motion of Maulvi Hassan Ali was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Bannerjee, Babu Jitendralal.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kisheri Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Heque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Karim, Maulvi Abdul.
Kasem, Maulvi Abul.
Khan, Maulvi Tamizuddin.
Khan, Mr. Razaur Rahman.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Poddar, Mr. Ananda Mohan.
Poddar, Seth Hunuman Prosad.
Quasem, Maulvi Abul.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hoseni.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdus.
Shah, Maulvi Abdul Hamid.
Solaiman, Maulvi Muhammad.

NOES.

Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sunil Kumar.
Ghose, Rai Bahadur Sasanka Comar.
Ghuznavi, the Hon'ble Alhaaj Sir Abdelkerim.

Critchlist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Lee son, Mr. C. W.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur-e
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijay Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 37 and the Noes 52, the motion was lost.

The motion that a sum of Rs. 2,10,001 including a token sum of Re. 1 be granted for expenditure under the head "47—Miscellaneous—Miscellaneous and unforeseen charges" (*1*) to cover the expenditure in excess of the voted grant on account of persons dealt with under the Bengal Criminal Law Amendment Act, 1930, as amended by the Bengal Criminal Law Amendment Act, 1932, and detained outside jails in Bengal and (2) to meet the expenditure of the military force stationed at Chittagong and at other places in Bengal was then put and agreed to.

The time-limit having been reached, the following motions under the head "47—Miscellaneous" were not called:—

Mr. SHANTI SHEKHARESWAR RAY: "That the demand of Rs. 2,10,001 under the head '47—Miscellaneous—Miscellaneous and unforeseen charges' be reduced by Rs. 100 (to discuss the condition of the détenus outside jails in Bengal and press for the appointment of non-official visitors from Bengal)."

Mr. NARENDRA KUMAR BASU: "That the demand for a token grant of Re. 1 under the head '47—Miscellaneous' be reduced by annas fifteen."

Haji BADI AHMED CHOWDHURY: "That the demand of Rs. 2,10,001 including a token sum of Re. 1 for expenditure under the head '47—Miscellaneous—Miscellaneous and unforeseen charges' be reduced by one anna (to raise a discussion on the recent excessive repressive measure and harassment of the public of all communities specially at Chittagong)."

Mr. SHANTI SHEKHARESWAR RAY: "That the item of the token sum of Re. 1 included in the demand of Rs. 2,10,001 under the head '47—Miscellaneous—Miscellaneous and unforeseen charges' be reduced by one anna (with a view to suggest that all charges for the garrison and expenditure on military forces should proceed against the Central Army Budget)."

Mr. PRESIDENT: I might tell the House that in response to an application made by some of the leading Muslim members of this House, which I duly forwarded to His Excellency the Governor, requesting that the Council should not meet on the 13th December, 1932, on account of the *Shab-i-Barat* festival, His Excellency has been pleased to direct that the Council shall not meet on the 13th instant.

(At 4-35 p.m. the Council was adjourned for prayer and it reassembled at 4-50 p.m.)

Special resolution under section 78A of the Rules and Standing Orders.

Recommendations of the Bengal Retrenchment Committee.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Sir, I beg to move that this Council recommends to the Government that steps be taken to give effect to as many of the recommendations of the Bengal Retrenchment Committee as possible in the Provincial Budget of 1933-34.

Sir, my motive for tabling this resolution was two-fold. Firstly, I wanted to emphasise the necessity of giving effect to the recommendations of the Retrenchment Committee as early as possible. It was my intention to show that the House is agreed—and not only agreed—but is anxious that the financial burden of the province should be lightened as much as lies in our power at the earliest possible opportunity. My second reason for bringing forward this resolution was to give an opportunity to this House to discuss the various recommendations embodied in the committee's report.

Sir, first of all, I must congratulate the authors of the Retrenchment Committee on their industry and the manner in which they have tackled this vast subject. I must confess that I do not agree with all the recommendations that have been made by the committee; and I personally feel that the report, although it has gone a long way in tackling the financial difficulties of the province, has not gone far enough. It was possible by a courageous handling of the problems

which confront this province to suggest further retrenchments than they have done. A cursory reading of the report gives one the impression that all along the line, the members of the committee were actuated by a desire for compromise. Their idea in making the recommendations was to go as little against Government departments as they could do. In the introduction to their report, they are apologetic and have referred to the efficiency of the working of the various departments which will, in their opinion, be affected by their recommendations.

5 p.m.

I am afraid that the question of efficiency is not always a question of money. It depends to a very large extent on the resources which we have to obtain the efficiency. Efficiency in administration does not depend always on the amount of money we spend on the services. Whatever that may be, I think on the whole the report is a very useful one and if effect is given to the recommendations without much delay, the finances of this province will be very much relieved. My first object is, as I have said, to impress upon the Government the necessity of taking early action, but this urging is perhaps not very necessary. I know, as most of us know, that the Member in charge of the Finance Department is an officer who does not spare himself and does not spare others, but at the same time we know from experience that the various Government departments which are affected generally by retrenchments have a predisposition of trying to obstruct the recommendations that necessitate a cut in their budgets. From that experience it is necessary that we should try to help the Finance Member by our unanimous recommendation that as far as possible and as early as possible these recommendations for cutting down our expenditure should be given effect to.

Going through the details of the recommendations I find that there are many items about which there can be no controversy and Government can straight off accept them. For instance, in the departments of General Administration the recommendations may be accepted straight off. In regard to the staff of the Household of the Governor, the number of Members of Council and Ministers and the pay of the President and Deputy President all of us are in unanimity.

As regards some other departments, we think that it was quite possible for the committee to go a little further. (A VOICE: What about the Cabinet?) I have already mentioned that. But I may add that the Retrenchment Committee seem to have a soft corner for the present Cabinet; while they recommend that in future the pay of the Members and Ministers should be Rs. 3,500, that the Members who are appointed under the present constitution should be given Rs. 4,000, they are absolutely silent about the Members who are at present in office. I do

not know what was in their minds; probably my friend to my left will explain. But so far as we can find from the report, there is no indication whether they want that the pay of the present Cabinet should be Rs. 4,000 or Rs. 3,500 or whether the present pay should continue.

As regards other departments like the Board of Revenue and the Secretariat, I think that the recommendations may be accepted without any discussion.

Coming to the Commissioners, *ex*-Commissioner as I am, I do feel that the recommendations of the committee go only half way and lack consistency. In their report they consider the Commissioners as very useful officers and thus disagree with the recommendations of the previous committee which recommended their abolition. At the same time under the pressure of public opinion I think they have recommended the reduction of the number of members by two. I hold that if the Commissioners are necessary, as they think they are, we must retain all of them; otherwise not at all. This recommendation is illogical and inconsistent and we cannot find any reason for this recommendation. In this connection I agree with the admirable Note of Dissent by Mr. J. N. Basu and not only on this but also in connection with the recommendations regarding the Excise Department. I do not know whether the committee have taken into consideration in arriving at their conclusions the opinion they received from various officers and the public. Throughout the report we find the words "We think this and we think that", but why they think so and why they do not think so, has not been explained; no reason has been assigned for their recommendations. They have not discussed the various recommendations and opinions. Therefore, we are not able to give our opinion except in the way they have done and say that we think such of the recommendations should be accepted and such of them not.

Coming to the hill exodus I submitted at the beginning that this was another case of compromise. They think that the hill exodus is necessary once in the year, but not twice. They cut down the second exodus and give three months for the first. I certainly do not grudge His Excellency the Governor going to and staying in the hills during the summer months, as it is quite right that he should, but I do not understand why it should be necessary for the secretaries or any portion of their department to go to the hills at all. It is not a question whether it is necessary in the interest of their health that they should go up to Darjeeling; the real point to consider is whether it is convenient or inconvenient for the people with whom they deal that they should be absent from their headquarters for such a length of time. Perhaps the argument of the committee may apply to some extent to the Members of Government, but in the case of Ministers, certainly I should think they should be among the people who have come to them often.

So far I have referred to the recommendations of the Retrenchment Committee, which should be accepted, but there is one matter in which I differ with them entirely, namely, that of education. Here the committee have suggested a reduction of something like Rs. 17,00,000. I think that this is the only department where there should not be any reduction. It is possible to adjust the expenditure by reducing the staff or by reducing the pay, but the money thus released should not be taken away to meet expenditure in other departments but should be employed on larger grants and other help to schools and colleges. Similarly, I strongly object to making any cut in the University grants.

It is very difficult during the time allotted to go through the whole report; what I wish to emphasise is that our needs are very great. Whatever money we can get we should get straight off as soon as possible and if the Finance Member will allow the departments to discuss or examine the various recommendations *ad infinitum*, I think they will never come to any decision.

I forgot to mention the Department of Irrigation which, I think, is more or less a luxury. Whatever amount the Government spend on projects under that department should be financed not from provincial revenues but from capital grant or should be met by the people who will be benefited. In the past Government have been recklessly spending money over projects which their experts thought would be of use to them only. Most of them are navigation projects which benefited only a few, yet the charges had to be met from the provincial revenues. It is not fair.

Then comes the question of expenditure on Calcutta. Here I very strongly support the Note of Dissent by Khan Bahadur Azizul Haque. It is very unfair that the amount of money Government are spending in providing amenities of life to the citizens of Calcutta should come from the Bengal revenues. The amount should be met from taxes realised from the people of Calcutta. There is no point in maintaining the Botanical Gardens, the Dalhousie Square gardens and three miles of metalled road through the *maidan* from taxes raised from the people of Barisal or Mymensingh. Similarly Rs. 45,00,000 that have been spent on the Calcutta Police is unjustified. I do not mean to say that the expenditure is unjustified, but the head from which the money is obtained is unjustified. Calcutta must support its own police. (A VOICE: What about the police in Chittagong?) Chittagong is paying for her own police. I think this is not the first time that the question of the expenditure on the Calcutta Police has come up before the Council. I hope the Finance Member will consider this Note of Dissent by Khan Bahadur Maulvi Azizul Haque and give it due consideration.

I think I have indicated the lines on which the discussion should perhaps proceed and I again emphasise the necessity of coming to an early decision on the report.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it not desirable that the Members of the Cabinet should be present to hear the discussion?

5-15 p.m.

Mr. W. H. THOMPSON: Mr. President, Sir, I do not propose to go into the details which have been put before the House by the last speaker, but I would draw the attention of the House to the wording of the resolution and particularly to the words in it, "as many recommendations as possible." Those words must have brought a smile in the face of the Finance Member, when he saw or heard them, for they will be his excuse for all the mental reservations which he will make when he will presently accept the resolution on behalf of Government. How many different interpretations, Sir, can be put on phrases like "as many as possible" or "as early as possible" or "as long as possible"? Each one of us has his own interpretation, and because the members of the Government of Bengal come mostly either from the north of the Humber or the east of the Padma, I should like to pin them down as far as possible, to an interpretation as strict as possible as to what as exactly as possible the phrase "as many as possible" is to be taken to mean in this connection. Though we do not use the same methods in our own business, the European group is aware that the elaboration of the budget is a process which takes considerable time. We know that heads of departments receive details of expenditure from their subordinates and get their budget ready by October. But if a head of a department says to himself, "this resolution has been brought and passed at this session and not in the last session before I framed my budget, so it is not possible that it shall be binding as far as my department is concerned," I say, Sir, so far as the European group is concerned, we will not accept that interpretation of this resolution. The chapters of the Retrenchment Committee's report were, I believe, passed on chapter by chapter to the departments as each had been dealt with and in point of fact departmental officers must have a very good idea of what the recommendations were coming to be, so far as their departments were concerned before those chapters were received. What we really want is that the budget—this is my interpretation of the resolution—shall be drawn up with full reference to the Retrenchment Committee's report and should be presented to us as it were along with the recommendations of the report. We shall not be unreasonable as to whether particular recommendations are acceptable or not and we shall not forget that as a group our instincts are conservative. We do not want

to see decisions taken in haste repented at leisure. In considering whether an institution is necessary or not, we would remind Government that those institutions grew up by a series of steps in their development. Each step was considered necessary at the time it was made and, therefore, even though the necessity for a particular institution may not be apparent at the moment, the very history of its growth demands that very careful consideration shall be given before it is abolished. It is easier to destroy than to build up. We want the budget to be so framed as to provide for such economies as the Government is able to accept now, and as regards the recommendations which it does not accept we do not want the Government to fob us off with the statement that "the matter is still under consideration."

Rai Bahadur SASONKA COOMAR GHOSE: Sir, I appreciate the spirit in which this resolution has been conceived, but it is difficult to support it as it stands. It seems to be so absolutely vague and so absolutely indefinite that I am tempted to describe it in the legal language. It is couched in a language which may mean everything or which may mean nothing. It says that effect should be given to the recommendations of the Retrenchment Committee as far as possible. By this expression, as the previous speaker has said, it may mean that Government should give effect to so much of the recommendations as may appear to them practicable. But how are we to decide as to the practicability or otherwise of giving effect to a particular recommendation of the Retrenchment Committee? What assistance is this House giving to the Government by passing a resolution that effect should be given to the recommendations of the Retrenchment Committee as far as possible? What is to be the criterion? The resolution is absolutely silent on that point. It does not indicate on what principle the Government should proceed. It may be said that this lies with Government. Undoubtedly so, but if that is the idea, I consider that this resolution is absolutely unnecessary. Why pass this resolution then? The Retrenchment Committee was appointed by Government which is faced with extreme financial stringency. Government is anxious to effect as much retrenchment as possible. Now, Sir, there appears to be a lurking suspicion in the minds of some members that Government will not give effect to the recommendations of the Retrenchment Committee. Sir, I suppose the action of the Government in regard to the recommendations of the previous Retrenchment Committee is in the minds of some of the members of this House; but so far as the present Retrenchment Committee's recommendations are concerned, the House have got to consider the situation, existing during the previous occasion and the situation as it exists now. After all it is the Government which has got to find funds for the purpose of running the administration on sound financial basis. It is not this House which will provide funds to Government. (Cries of "Yes, yes".) Government has got to find funds,

and with a deficit of two crores of rupees staring them in the face I do not see that Government can do anything else but to effect as much retrenchment as possible. On the other hand my submission is that there is a suspicion in the minds of some members that Government will not give effect to the recommendations. My own idea is that Government will give effect to most of the recommendations of the committee and that they will also explore new avenues of retrenchment in view of the huge deficit of two crores of rupees. We have, however, to consider the principle on which these retrenchments should be made and to consider the effect of these retrenchments on the people at large. Now there is the question of unemployment before us. What is going to be the fate of a large number of men who will be thrown out of employment as a result of the retrenchments? We should indicate the principle on which the recommendations of the Retrenchment Committee should be considered, such as efficiency of service, the importance of a department, and such other things, so that it will be of some assistance to Government in coming to a decision. I consider this resolution to be objectionable on the ground that it is unnecessary and that it seeks to make a recommendation which, I think, will affect the good name of this House, as it does not give any idea as to how the retrenchments are to be effected.

Sir, we are discussing a very momentous question and it is necessary to have not only facts and materials but also expert opinion. This report was placed before us only three days ago and I do not think that every member of this House has read it with that care and attention which is necessary to give an opinion on its recommendation. As I understand it, the idea of some of the members of this House is that here is the report; it has been submitted by a committee which has devoted much time and attention to it and the members of the committee were selected because they were considered experts on the subject. (Cries of "No, no".) Well, they have submitted their report and we are asked to accept it because their recommendations must be correct. After reading the report it seems to a layman like myself that it is not very satisfactory, because in most cases they do not give any reason for their recommendations and it appears to me that there are many question on which they have come to a decision without all the facts and materials relevant to the subject being placed before them. For instance, let me take the Retrenchment Committee's recommendations with regard to the cut in the grant to the Dacca University. I will not, Sir, I dare not, say anything with regard to the Calcutta University, particularly when an able and gifted representative like Mr. Syamaprosad Mookerjee is here to represent that University. I shall say a few words with regard to the Dacca University. As Treasurer of the Dacca University I know that the Retrenchment Committee did not consult the members of the University or take into consideration its previous history or the circumstances under which it came into being. There is a provision of

Rs. 81,000 in the current year's budget and Rs. 88,000 in the next year's budget. I will place before the House a few facts in order to enable the House to come to a conclusion with regard to the recommendation for a 5 per cent. cut in the grant to the Dacca University. In the first place, Sir, the grant of Rs. 5,50,000 to the Dacca University is statutory. The committee have recommended a cut in this grant, but it is not possible to make a cut in the grant to the Dacca University unless a Bill is brought up for the amendment of the Dacca University Act, and if such a Bill is brought before the House, I do not think that the recommendation can be given effect to as quickly as the mover wants the Government to do.

With regard to the Dacca University, I wish to bring out the facts briefly. It is well known to the House that after the annulment of the partition of Bengal Lord Hardinge came down to Dacca and announced that a residential university to be called the Dacca University would be established at Dacca.

(At 5-20 p.m., the Council adjourned for prayer and it reassembled at 5-30 p.m.)

As I said, Sir, the Dacca University was started in 1912, but it could not be actually brought into being before 1921. Now, Sir, during these years the Government of India made a capital grant of something like Rs. 56,00,000 to the Dacca University year by year. They have been setting apart a sum of Rs. 4, 5 or 6 lakhs and sometimes more, and in the year 1921, when the reforms were inaugurated and the finances of Bengal were separated from the finances of India, the entire amount was made over to the Government of Bengal and earmarked for the Dacca University. Here I beg to emphasise to the Council that not a single rupee of this Rs. 56,00,000 ever belonged to the provincial revenues. The whole amount was found by the Imperial Government, and since the year 1921, the Government of Bengal have been systematically making a capital grant of Rs. 4,00,000 year after year to the University.

Mr. A. K. FAZL-UL HUQ: Is this relevant to the subject under discussion?

Rai Bahadur SASONKA COOMAR GHOSE: What I want to say is this, that out of this Rs. 56,00,000 that was handed over by the Government of India, the Government of Bengal earmarked for the Dacca University——

Mr. PRESIDENT: But how does the proposed reduction affect the University?

Rai Bahadur SASONKA COOMAR GHOSE: What I say is that the Bengal Government, in view of its financial difficulties, did not hand over more than half the amount which had been earmarked for the Dacca University, while the Dacca University has been making all their commitments on calculations based on that grant.

(Here the member having reached his time-limit resumed his seat.)

Mr. SYAMAPROSAD MOOKERJEE: Unlike the previous speaker I would welcome this opportunity to discuss the report of the Retrenchment Committee. I would do so, Sir, first because the Retrenchment Committee was appointed in accordance with the unanimous demand of this Council. Sir, I am not going to trouble myself at this stage as to the nature of the constitution of this committee. One speaker said that they were not experts; another reminded us that perhaps they were experts. But whether they were experts or not, that is not the question which is before the House to-day. On that question, Sir, I would rather like to be consoled with the remark which appeared in a leading newspaper in this city, that Government constituted the committee, taking good care that all the three great religions of the world were represented on it, *viz.*, Hinduism, Muhammadanism and Christianity—I am referring to the three non-official members of this House! The report of a Retrenchment Committee affecting a province like Bengal cannot possibly give satisfaction to every one and I may say at once, Sir, that there are portions in the report which do not appeal to me at all. I may have to criticise some of the recommendations of the committee, and criticise severely, but this will not prevent me from conveying to the members of the committee my tribute of appreciation for the courage and thoroughness with which they have attempted to do their work—a task which was certainly difficult and enormous in its extent. I realise, Sir, when I say all this, that the report of the committee is beset with compromises, to which the hon'ble mover has himself referred. In fact, there are certain compromises of a fundamental character which go against public opinion. The members of the Retrenchment Committee have not attacked certain departments of Government—I will at once refer to Mr. Prentice's department—as thoroughly and as effectively as public opinion demands; but still it does not follow that the little that the committee have recommended with regard to certain items should not be accepted. Another reason why I welcome this motion is that I want to convey to Government that they should not lose much time in giving effect to those recommendations of the committee at any rate, in regard to which I believe there can be no difference of opinion amongst any elected Indian member of this House.

Time will not permit me, Sir, to refer to the details of the recommendations. So I would just like to refer to some of them only. I would refer first and foremost to the proposed size of the Cabinet and the reduction suggested in the rate of salary applicable to its members.

That is a recommendation, Sir, which should be accepted, although I have not been able at all to understand, like the hon'ble mover of the resolution, why a deliberate distinction has been made between the present Members of the Cabinet and the future Members to come. I do not think that we are doing proper justice to Bengal when we say that it would be impossible in future to replace the present galaxy in the Bengal Cabinet. I do not know what exactly passed in the minds of the members of the Retrenchment Committee while making this recommendation; that is a matter which certainly requires further explanation. Again, if you refer to the recommendation, you will find that it says that for future Members of the Cabinet under the present constitution the salary should be Rs. 4,000 a month. I do not know whether the intention of the committee was that the present Members of the Cabinet would go on getting their present salary. If that was their intention, certainly the House will go against such a proposal. If the reduced salary proposed is good enough for future members of the Bengal Cabinet, it is certainly good enough—if not too good—for the present Members of the Cabinet: that is one of the items, Sir.

The next is about the hill exodus. Now, that is another matter regarding which public opinion has expressed itself very strongly both inside the House and outside. I do not think it is necessary at this late stage to place before the House reasons why the hill exodus should be abandoned altogether. On this question, too, a compromise has been suggested by the committee. But let us at any rate start with the compromise at once and not at a future distant date. Let us see how it works; then we can consider later on the demand that this should be given up altogether. Then there is a proposal for the reduction in the post of Commissioners. Here again this is a matter which breathes an air of compromise. The Retrenchment Committee have recommended that the number of Commissioners can be reduced from five to three. I say we are prepared to go still further and recommend the total abolition of Commissioners, and thereby accept the Note of Dissent of our hon'ble friend, Mr. Jatindra Nath Basu. But even if it is not possible for Government to abandon the Commissionerships altogether, let us at least make a beginning with three and see how it works.

Then again, there is a proposal for the reduction of allowances. Sir, one thing which has always puzzled me in regard to the finances of the Government of Bengal—or perhaps it is true with regard to every other provincial Government as well—is the provision for payment of duty allowances to some officers of Government, as if the fat salary paid in the Imperial Services was not sufficient to induce these self-sacrificing officers to do their work, but something extra must needs be paid to them to make them do their normal work.

I find in the report of the Retrenchment Committee that there is a definite recommendation that many of these allowances should be discontinued, and that is a recommendation, Sir, which should be given

effect to at once. There is also a proposal about the reorganisation of the scales of pay. Generally speaking, I shall certainly lend my support to the scales proposed in the report. I lay considerable stress upon the policy of Indianisation, which has been so courageously advocated by the committee. I hope, Sir, Government will realise that this is also a matter, regarding which there can be no difference of opinion amongst the members of this House and should be carried into effect without delay.

As I said at the beginning, there are certain features in the report with which I am not in agreement. I have just placed before you some of the recommendations regarding which I believe there can be no difference of opinion amongst members of this House or outside. But, Sir, much as I would like to refer to all the recommendations with which I am not in agreement, I am unable to do so for shortness of time. I should have liked, for instance, to refer to the recommendation regarding the Public Health Department. The work of the School Hygiene Department—I know from personal knowledge—has been splendidly done and any proposal to curtail its activities will certainly not be to the best interests of the province. Again, the proposal to abolish the Calcutta Technical School or to curtail the facilities for technical education is not certainly a proposal which is calculated to promote the best interests of the province. These are matters into the details of which I cannot possibly enter to-day. But I should like to pass on to the Department of Education with which I am more intimately connected. I am opposed, generally speaking, to any reduction in the education grant of the province. Even now the amount which is spent on education is comparatively small, and any proposal for reduction of funds is certainly calculated to retard the progress of the province, which every one has at heart. I know that there is a proposal for the readjustment of certain items of expenditure within the Education Budget itself, but my point is—and this point we made clear at a conference held in the residence of the Hon'ble Minister for Education to consider the question of deprovincialisation of Government schools and colleges—my point is, that any saving which may accrue from such readjustment must be spent on education. Sir, we know the financial difficulties of the provincial Government. We know it is not possible for them to spend more money on education, but let us at least not spend less than what we are doing. As regards the details in the Education Budget, there comes first of all the proposed five per cent. cut in grant to the Calcutta University. Sir, the grant to the Calcutta University was decided upon after prolonged discussions and conferences last year, and I would appeal to Government to see that the understanding and arrangements arrived at are not disturbed, as a result of the report of the Retrenchment Committee. I am surprised, Sir, painfully surprised, that the responsible members of the Retrenchment Committee who made this recommendation of a five per cent. cut, affecting a great public institution should

not have obtained any information from the University. (A VOICE: But there was a Fellow of the Calcutta University on the committee.) Yes, but he was not there in his capacity as a member of the University.

6 p.m.

Sir, so far as this grant to the University is concerned, the Hon'ble Minister knows the whole situation, and I am not going to tire the patience of the House by referring to it in detail. But I say this, *viz.*, that we are prepared to state our case before the Hon'ble Mr. Woodhead or any other Finance Member who may come into existence and convince him that no reduction in the grant is at all feasible or justifiable.

As regards the other items of the Education Department, there is a proposal for the abolition "on a temporary basis" of one of the training colleges. I do not know, Sir, what temporary death means; but that is certainly a retrograde proposal. Any one, who has any idea of the condition of things in the secondary schools in Bengal, cannot for a moment agree to any proposal whose object is to do away with one of the two training colleges. With regard to this matter, I am rather struck by the inconsistency of the signatories to the Report at pages 88-89, where the committee refer to the normal schools, whose duty is to train teachers for middle schools. They say: "the lack of trained teachers is a serious obstacle to the progress of education in Bengal, and their training is a function which Government may legitimately finance".

When they come to *guru*-training schools, they say: "the necessity of such schools is unquestionable and will increase when effect is given to the provisions of the Primary Education Act. We have been told that the schools are ill-equipped and poorly staffed. This, if correct, is a good argument for their improvement, but is not a convincing reason for their abolition". But what about the training colleges for secondary school teachers? If we turn to page 88 of the report, we find that there the same committee say: "but in view of the financial condition of the province, we recommend that, as a temporary measure, one of the training colleges should be closed". I think, Sir, that, if this recommendation is accepted, it would be disastrous to the cause of secondary education in this province. In this connection, I would refer the House to the declaration—in whatever sense one may take it, *but it was not a private declaration—it was a public declaration*—made by Lord Lytton at the time of opening a new school at Ballygunge. If the present Government paid the same attention and importance to the opinion expressed by Lord Lytton, as the Hon'ble Mr. Prentice did to the unknown Khan Saheb of Chittagong, I am sure that Government would not do away with the training colleges for teachers.

Sir, so far as the Dacca University is concerned, I have every sympathy with whatever has been said by my hon'ble friends, and I do not support any proposal to reduce the grant to that University.

Sir, there is another proposal touching the educational problems of this province on which I should like to say a few words before I resume my seat. The Retrenchment Committee have suggested the abolition of the Government Commercial Institute. That also is a matter with which I am not in agreement. It may be, Sir, that some of these institutions are not doing their work as properly as they are expected to do. It may be that you may perhaps want to extract better work from these institutions. That may be true, Sir, but the remedy, surely, lies in seeing that improvements are made in the working of these institutions and not in doing away with them altogether. Sir, it would be an evil day for Bengal if there is not a single school which is devoted entirely to the promotion of commercial studies in this city. When I go to Bombay and see the Sydenham College of Commerce, which is a growing institution, I feel proud of it, and I feel sad that Calcutta has not any college of that type.

Sir, I do not propose to take any further time of the House, but I would once again say that, although it is our duty to see that retrenchments are made in all the departments of the State as far as possible—and although in these days of acute financial difficulties, it is the duty of every one to co-operate and see that expenditure is cut down—at the same time, I must say—to use a hackneyed expression—that the nation-building departments, already badly financed, should not suffer any more, for the purpose of enabling the Hon'ble Mr. Prentice and his department to flourish.

Mr. NARENDRA KUMAR BASU: Sir, in speaking on this resolution one is met at the outset with a great deal of difficulty. The motion is as follows:—

"This Council recommends to the Government that steps be taken to give effect to as many of the recommendations of the Bengal Retrenchment Committee as possible in the Provincial Budget of 1933-34."

Sir, the first difficulty that strikes one—especially a non-official member of this Council—on going through the report is that, whereas the Reserved departments have been let off very lightly by the committee, all their energies were bent against, and all the thunders, they could command, were hurled at, the Transferred departments. Sir, as we all know, the Transferred departments have always been treated by Government in a niggardly fashion. In fact, the greater part of the revenues of the province is spent not on what are known as nation-building departments but on Reserved departments,—especially on the maintenance of law and order, and allied subjects.

Sir, if we were to make an analysis of the recommendations of the committee, we would find that, whereas the sum total of the suggested reductions in the Reserved departments comes up to 7 per cent. only of the budget, the reductions recommended in the case of the Transferred departments come up to 16 per cent. The House should remember that the ratio of expenditure incurred on Reserved subjects to that incurred on Transferred subjects is two to one. Therefore, in effect, the retrenchment recommended in the case of Transferred subjects is four times as much as it is in the case of Reserved subjects.

Sir, it is rather startling that three non-official members of this Council should have sat down calmly for days together and suggested a reduction of expenditure by 7 per cent. under "Education", 9 per cent. under "Medical", 28 per cent. under "Agriculture", and 19 per cent. under "Industries". I am glad, I must say, that they have recommended adequate reductions of expenditure so far as the Irrigation and the Public Works Department budgets are concerned. They have cut down the Irrigation budget by about 15 per cent. and the Public Works Department—popularly known as the Public Waste Department—budget by about 29 per cent. But, when we come to the greatest spending department in Bengal—the Police Department—which swallows, as we all know, about 23 per cent. of the total budget of this province, if not more, the recommendation is that the Police budget should be reduced by about 5 per cent. As regards the Jails Department, which is under the tender care of Sir Provash, the recommendation is that a reduction of only ·6 per cent. should be quite enough!

I submit, Sir, that, so far as this House is concerned, we have reasons to complain that the committee have not taken into account the future problems which might crop up: instead they have taken heed only of the present needs of the powers that be.

Sir, I shall not take up the time of the House with a minute examination of the various reductions recommended by the committee: nor shall I say anything about the reduction in the number of the Members of the Cabinet and other crucial things.

Unfortunately, the members of the Committee, though they are experienced in many other walks of life, have no experience of the civil courts of the province. If they had, they would not have recommended that the cadre of the Subordinate Judges and the munsifs should be reduced. If they knew anything about the work done by the Subordinate Judges and the munsifs, they would have known that, instead of decreasing their number, their cadre should be increased four-fold or five-fold. And what is worse is that they have recommended that the ministerial staff in the *mufussal* civil courts should be reduced. If they had known that these ministerial officers of the civil courts are paid at the *princely* rate of Rs. 30 to Rs. 40 per mensem, and that they have to work from

6 a.m., in the morning till 10 p.m., in the night very often, they would have realised what amount of work these ministerial officers put in.

Then, Sir, turning to the Education Department my friend, Mr. Syamaprosad Mookherjee, has already spoken about the training colleges. In this connection, I would simply refer to the amalgamation of the Hindu and Hare Schools. I do not know how you can reduce the expenditure incurred on these two schools, inasmuch as I am afraid no amalgamation will result in any saving. In fact, some of the members may be aware that amalgamation was tried some forty years back when the number of students of these two schools was much less than what it is now; but the experiment failed miserably.

Then, Sir, there is another amazing proposal. It is that fees should be charged from patients in public hospitals; and they expect to realise the princely sum of Rs. 23,000 per annum from this source by levying a minimum charge of one anna per diem on outdoor patients. I do not know, Sir, what caused this idea to enter into the heads of the members of the Retrenchment Committee—to squeeze this princely sum of Rs. 23,000 out of the poorest of the poor who cannot certainly afford to pay one anna per diem: they cannot even pay one anna per week. This suggestion is much more to be deprecated and condemned than any other charge or levy in the case of other departments.

With regard to the educational services, another startling recommendation has been made. It is that all the Inspectresses of Schools should be dismissed. I think that, in view of the state of female education in this province, it would be a great blunder to abolish the posts of Inspectresses of Schools.

Now, I come to the pay of the Bengal Educational Service. At page 141 of the report, you will find that the two services for which the least pay is recommended, excepting the Bengal Junior Civil Service, are the Bengal Forest Service and the Bengal Education Service. I do think that the members of the Bengal Forest Service have got to do their work in very uncongenial climates, and, therefore, their prospects ought to be the same as that of members of the other services. As regards the pay of the Bengal Education Service, I might point out that I heartily deprecate the scale fixed for members of that service, inasmuch as the education of our young men is the first concern of these officers. What Bengal has to grapple with is to educate our young men properly. Sir, only the other day, the Chairman at the St. Andrews' Dinner, in proposing the first toast of the evening, remarked that much of the evil from which Bengal suffered was due to unemployment, which, he added, was due to an improper form of education and that the question of education would have to be tackled very soon. That being so, Sir, any attempt to lower the calibre or to lower the pay of those who are especially entrusted with the education of our young men, will jeopardise the interests of Bengal in the long run.

So far as the Departments of Agriculture and Industries are concerned, I should like to remind the House that in the case of the Agriculture Department they have recommended a reduction of 28 per cent.

6-15 p.m.

No valid reasons are given for this large reduction in the Industries Department. As will be in the remembrance of this House, the Public Accounts Committee recommended that there might be some savings in the staff of the Industries Department, but that the money so saved should certainly be spent in fostering the industries of this province. The question of unemployment is looming large in the eyes of the public at the present moment and it is certainly inopportune to make any cut in the Transferred departments. I submit, while acknowledging the great labour and industry with which the members of the committee have done their work, that they did not have the proper advice so as to keep these important matters before their eyes. They were probably so much obsessed with the influences in Writers' Buildings that they did more for the Reserved departments than they should have done, and have forgotten that the Transferred departments should not be cut as much as the Reserved departments. They have been brow-beaten into giving this sort of a report.

Mr. ABDUL KARIM: At this late hour I do not like to go into the details, but if the recommendations of Retrenchment Committees are not given effect to, it is incomprehensible why such committees are appointed and so much money wasted. The Retrenchment Committee under the presidency of Sir R. N. Mukerjee, appointed in 1922, was desired "to make recommendations for effecting all possible reductions in the expenditure of the Local Government." After orally examining 108 witnesses and taking into careful consideration 173 written memoranda, the committee submitted their report making some specific recommendations, indicating economies which might be effected by reduction in the number and pay of officers in different departments. Had action been taken on those recommendations, perhaps there would not have been such financial stringency and the appointment of another Retrenchment Committee might not have been necessary. But ten long years have passed and, as far as I am aware, nothing practically has been done to give effect to even one principal recommendation of that committee.

In the place of one official, the Lieutenant-Governor, who used to administer Bengal, then consisting of Bengal, Bihar and Orissa, there are now for the same work so many as seventeen officials, drawing very high salaries—2 Governors, 6 Executive Councillors, 5 Ministers, 2 Presidents and 2 Deputy Presidents, not to speak of the consequent increase in the office staff. This is reform with a vengeance! How long can such top-heavy administration function?

Bengal, the richest province in India, has been, by an irony of fate, reduced to the position of the poorest province, having been deprived of the income from some of its most lucrative sources, and she is now in dire financial stringency. Such being the condition of Bengal, would it be too much to expect that the recommendations of the Retrenchment Committee of 1932, made after careful consideration of the existing circumstances, should be given effect to without delay? If the recommendations of 1932 Committee be treated like those of the previous committee, it would be nothing extraordinary if the conviction grows that public money is wasted to shelve real economy, to hoodwink the public and to whitewash administrative prodigalities in the face of great financial embarrassment.

I cannot, however, approve of the committee's recommendations regarding drastic retrenchment in the Education Department, particularly those about the reduction in the number of institutions for the training of teachers and of sub-inspectors of schools. If the committee had the advantage of the advice of those who have an adequate knowledge of the educational requirements of the province, I am sure they would have realised that two of the crying needs of Bengal are proper training of teachers and thorough inspection of schools. Sound education cannot be imparted by untrained teachers. I was myself a teacher and two of my pupils present in the House, Khan Bahadur Maulvi Abdul Momin and the grey-haired Maulvi Abul Kasem, will, I believe, bear testimony to my being regarded as a good teacher in my time. (Cries of Hear! hear!") But I now realise how little did I know of teaching and how much better would I have taught if I had been trained. It is, therefore, expansion, and not curtailment, of training institutions that is necessary. In this respect Bengal is far behind all other provinces in India. Only 12 per cent. of the teachers in Bengal are trained, while in Madras 78 per cent., in the Punjab 75 per cent., in the Central Provinces 68 per cent., in United Provinces 45 per cent., in Assam 34 per cent., in Bihar and Orissa 32 per cent., and in Bombay 22 per cent. are trained teachers. As for the inspecting agency, the higher branch may be pruned without affecting efficiency, but in view of the expansion of primary education, long overdue the subordinate cadre requires addition and not subtraction.

Once a high European official connected with the Education Department in another province was asked what, in his opinion, was the difference between a school in India and a school in England, and he promptly replied: "The difference is the same as that between chalk and cheese." Why should this be so in spite of the well-paid agency we have got for the purpose? We should like to have an answer to this query from the Hon'ble Minister of Education and the Director of Public Instruction.

(Here the member having reached his time-limit resumed his seat.)

Mr. A. K. FAZL-UL HUQ: I frankly confess that I consider all proposals of retrenchment as utterly futile unless the axe is laid heavily on the top-heavy administration which has become a scandal in Bengal. Only the other day, when Bombay realised that its finances were low, two Executive Councillors and one Minister went out of office in order to relieve the people of the burden of their high salary. In Bengal only the other day, I am speaking quite frankly, when the Hon'ble Mr. Prentice went on leave, we thought there would be an occasion for effecting economy, the vacancy in the Executive Council would not be filled up and thereby effect retrenchment. We are glad Mr. Prentice has come back and that perhaps out of love for the people of Bengal, but his coming back has rendered the question of economy somewhat complicated. Mr. Woodhead is new and we are all agreed that he should be given a little time to show what he is capable of doing to increase the revenue of Bengal. As regards the two Indian Members of the Executive Council, all my friends realise that they are jaded, care-worn and sickly and how very necessary it is that they should be given their well-earned rest. So far as they are concerned, they think that they are required. I am very sorry that they are not here, but every one wants that as the burden of the revenue administration of the province with a denuded revenue means an enormously heavy work which with difficulty they can carry out, they should be given a little rest.

As regards the three Ministers, I will only say that I leave it to their conscience to say if in the circumstances in which we are placed they should continue to draw Rs. 64,000 a year when several times 64,000 of their countrymen are actually dying of starvation. They are well-to-do people, they are *zamindars* and they should have courage to draw this Rs. 64,000 out of their own pockets.

The next point is this: The Members of the Cabinet are giving advice to His Excellency the Governor as to what should be done and I can quite see what advice they will give. They will say that the best way to begin a thing is to begin at the very bottom. If there is to be retrenchment, begin with the orderlies, the *chaprassis*, the *jamadars* and the clerks; do away with 50,000 of them (there is more than a lakh of them), because they are unnecessary. Thus there would be a saving of Rs. 64,000 which will satisfy perhaps the demand of the police.

I submit that in a matter of this kind what really does matter is the intention of those who rarely want to carry public opinion as reflected in every quarter with them.

It is true that there are certain departments in which there can be no possible economy and one such is the Education Department. I entirely agree with everything that has been said. I believe there is a

feeling that not a single pice which is allotted to the Education Department should be taken away. I will not go into details, but the best way to effect economy is to do away with useless officers and useless departments.

For myself I consider that the Department of Agriculture is absolutely useless. It has been doing no work except growing two kinds of paddy and two kinds of potato. In spite of all the work it has done during the last 30 years, neither does more paddy grow nor potatoes develop.

Then, as regards the Department of Commerce and Trade Union dispute, I cannot understand what is the utility of these officers in a province like Bengal.

I submit that in examining the question of the abolition of Commissioners, my friends have forgotten one very important point. We read in the legal language of a covenant which is something like running with the hare and hunting with the hound. If Government goes along, the members of the Civil Service carry their high salaries with them wherever they go; whether they are appointed as Commissioners or Inspectors of Ferries, that seldom counts. They get their salaries all the same.

6-30 p.m.

Neither is it easy to dispense with a system of having Commissioners of Divisions all at once. The best way of making economy lies in other directions and I make a practical suggestion. I appeal to all officers enjoying salaries of Rs. 1,000 and over, to make a voluntary sacrifice to show that Bengal which they have been serving is in a very bad way and that they can afford to make a sacrifice by foregoing a part of their salaries. If they come forward in that spirit, there will be economy; otherwise there cannot be any retrenchment worth the name.

As regards the various details, I do not wish to say anything because there are so many speakers waiting to speak, but I would make one more appeal to the Members of the Government. Let them consider what they should do. They have got only a year or so to serve. As regards our Ministers, let them also consider the matter. So far as the recommendation of the Retrenchment Committee with regard to the Cabinet is concerned, I consider their recommendation to be a timid one. They have not the courage to say that the Cabinet is too big and they made a half-hearted recommendation that it should be reduced to five. But I ask why even five. Two Executive Councillors and two Ministers should be quite enough. The Retrenchment Committee should have definitely recommended that the Cabinet should consist of only four members with a salary of Rs. 4,000, and I think the Members

of Government should have come out courageously and accepted this salary at once. I make an appeal to them—let them come forward and accept this salary. They have earned their salaries for over two years and they are now fixed in their posts. Let them come forward with this sacrifice. Let them not touch the poor clerks and orderlies. I submit, Sir, and I speak with confidence that the Hon'ble Mr. Woodhead in taking up the recommendations of the committee should not try to carry out those recommendations which touch the poor people only; it does not matter if the big people are affected. Let not the poor people be touched. The sacrifice must come from the bigger people.

Mr. ANANDA MOHAN PODDAR: Mr. President, Sir, we are on the eve of great constitutional reforms. We are anxiously awaiting the day when a more democratic and perhaps more popular scheme of administration will be introduced in our land. How we wish that the coming reforms will be a real blessing to the country—it will satisfy the national aspirations of the people, will remove the discontent that is rampant throughout the length and breadth of the province. But along with the high hopes, Sir, we are reminded of the fact that the new scheme of administration will perhaps be more expensive and may not prove to be a blessing on that account.

Sir, since the days of Montford reforms, the people of Bengal have been entrusted with the administration of certain nation-building departments through their Ministers. Sir, the Ministers are all persons of good parts with national hopes and aspirations in their hearts, and they are always eager to put forward schemes for the advancement of the people. But there is always a great handicap in their way—it is the question of money. Sir, the Government of Bengal is to-day faced with such a financial crisis, that it cannot carry out the essential functions of administration without borrowing. On the face of this where is there room for hope that the coming reforms will be a source of real blessing to the people of Bengal unless its financial condition is improved? Sir, as the question of finance stands in the way of every scheme for the advancement of the people, is it not fit and proper that all avenues of economy and income should be explored? The sources of revenue in Bengal are really inelastic and there is little prospect of their expansion in the near future. So the only avenue left to us, is to effect economy in the expenditure of the province. The Retrenchment Committee after a laborious and careful scrutiny has put forward practical suggestions which will lead to an ultimate saving of Rs. 1,84,96,000. Under the existing circumstances the suggestions, if carried out *in toto*, will only help to balance the budget. It will leave very little surplus for the development of the nation-building departments as well as to meet the increased expenditure of the coming reforms. I am of opinion that the Retrenchment Committee could

safely go further and suggest more economy in the administration of Bengal. But, whatever it may be, I think it is the duty of the Government to take up the task in right earnest and boldly carry out the recommendations with a view to remove the discontent in the country, to supply adequate funds to feed the children of the soil, to spread education amongst them, to save them from disease and to stimulate the decaying agriculture and industry of the province, so that, the people, for whose interest the administration exists, may live and prosper, and also in view of the momentous constitutional changes, to give the future Government a proper lead so that it may not have to face the same difficulties with which we are now faced.

I voice the sentiment of a large section of my countrymen when I say that the Government is top-heavy and the cost of the overhead charges has increased to such an extent that it is starving and sterilising all avenues of progress in the province. I do not like to enter into a detail of the recommendations of the committee, but I cannot ignore some of the items. As for instance, I am unable to agree that the Divisional Commissioners should continue or that the Government of Bengal should move to Darjeeling during the hot weather. I do not grudge His Excellency the Governor staying in the Hills for a certain period during the summer, with his personal staff. But I cannot understand why all the officers of the Secretariat should accompany him as at present. I am of opinion that the expense of District Administration may be further reduced by amalgamation of the services and by reducing the cadre and pay of the same. The Departments of Agriculture and Industries, Irrigation, Public Works, Commerce and Marine, I am constrained to say, are doing very little good to the people of Bengal in return for the huge amount spent on them—and in view of the deplorable financial condition of the province I think the people of Bengal will whole-heartedly welcome any drastic cut, if not the abolition of some of them.

Sir, the cost of the Police and the general administration in Bengal is undoubtedly very high. These departments are always subjected to severe criticism owing to their enormous appropriation of public money. But I do not fail to recognise that the province of Bengal has unfortunately to face certain problems peculiar to itself. The terrorist movement and the frequency of dacoities in Bengal cannot be lightly brushed aside and in effecting economies in the department particular care should be taken that the efficiency of the force be not impaired. We find that the expenditure on this head has greatly gone up during the last few years, surely owing to the abnormal situation in the country. But, in spite of our spending this huge amount on the Police, we find that the situation is growing worse day by day and we do not know when and where to stop. Our past experience goes to show, that we have failed to turn the tide of political unrest though we

have spent lavishly on Police. In my opinion, the enhanced expenditure on Police on account of the political unrest in the country is a waste of public money, and with an altered situation only we can stop this waste. However unpleasant it may be to us, we cannot to-day deny the Police this huge expenditure without running the risk of greater difficulties. But my point is this, as we are forced to spend a large amount on the Police, which we cannot afford to spend, it is prudent for us to find out means by which the necessity of spending so much may be removed. This leads us to the root causes of the political crimes and terrorist outrages. There is no denying the fact that discontent is the root of all political unrest, so long as discontent is there you cannot do away with the expenditure on Police. But as we are unable to spend so much on Police, is it not better to remove the causes of discontent? Political expediency calls for it, true statesmanship also calls for it. As I am unable to support any drastic cut in the Police expenditure, I am equally unable to support the policy of the Government which is responsible for the huge expenditure on the Police head and which is consuming a very large share of the poor taxpayers' money.

With these few remarks I support the motion.

Maulvi ABUL KASEM: Sir, I rise to support the resolution put forward by Khan Bahadur Abdul Momin. Rai Bahadur Sasanka Coomar Ghose remarked that it was vague and indefinite and absolutely unworkable. I support it, although I do not like the form of the resolution, because it leaves entirely in the hands of the Government as to what recommendations should be accepted and what not. Sir, people abler than myself have brought forward arguments and they have spoken about top-heavy administration. I have only to add another argument as to why I agree that the administration is top-heavy, and that is that the Treasury Bench is too much cramped and crowded and some members should go out to relieve the congestion. Sir, I strongly object to Mr. Fazl-ul Huq's remark that the Department of Agriculture should be abolished. True it is that this department has not done much good work, but in full justice to the members of the service of that department I must say they have had very few opportunities and very little help to carry on the work entrusted to them. Sir, the Agriculture Department is always a neglected branch in the administration of Bengal. Much has been said about the extravagant expenditure on the Police and it has been said that this is due to the prevailing unrest in the country. I say, Sir, it is due to want of statesmanship. If they help the agriculturists who are the real producers of wealth, there would not have been such unrest. I urge the Government to do everything possible to improve the condition of the agriculturists, and to increase their earning capacity and thereby

secure increased taxation. At the same time I agree with Mr. Syama-prosad Mookerjee that industrial and commercial training should be more encouraged rather than that there should be a curtailment of expenditure on them. As regards the Department of Education, I submit, Sir, that it would be absolutely unjustifiable to take out a pice from the educational grant, although I realise that there should be a redistribution of expenditure of the educational grant between the various institutions. I think, Sir, that lavish expenditure on university education is not justified when the Hon'ble Minister for Education has committed a heavy joke on our people by getting the Primary Education Act passed but not giving effect to it, because he thinks that the vocal section of the people would not like it. I think, Sir, primary education should receive the prior consideration of Government than university education. I have neither the time nor the desire to dilate on this question, but I would draw attention to one part of the Retrenchment Committee's report. They have recommended that certain sub-registrars' offices should be abolished. I think they do not realise what it means. It means that poor people in the rural areas instead of having to walk three miles will have to walk twelve miles for registering a document. You should not effect retrenchment by causing inconvenience to the people. Retrenchments worth the name should be such as would enable the Government to save money without causing inconvenience to the people and without loss of efficiency of the administration. I know, Sir, there was a family of several people who wanted to retrench their expenditure. They saved money by fasting, which they spent on marriage ceremonies. That is not the proper way of doing things. The proper way is not to spend moneys on marriage ceremonies.

6-45 p.m.

What I submit is this, that the first and foremost thing is that as my friend Mr. Fazl-ul Huq has said, the top-heavy administration should be reduced: the top is too heavy for the body to bear.

Next, as regards the expenditure on Police, it is no doubt true that we cannot reduce the Police force without disturbing the peace and safety of the people. But I submit that if more money were spent on agriculture and industries, trade and commerce and commercial training instead of on other unnecessary subjects, the necessity for such high expenditure on Police would cease to exist.

With these words I commend the resolution to the acceptance of the Government, and request them that, as far as possible, effect should be given to the recommendations of the Retrenchment Committee. If it is delayed for several months, then there is no good having had a Retrenchment Committee at all. We have passed our State-aid to Industries Bill, and also the Primary Education Bill, and now we have

had the report of the Retrenchment Committee. If we throw every one of these into the waste paper basket, there will be so much public money wasted and public time wasted, and nothing more.

Mr. H. H. BURN: I must congratulate the members of the Retrenchment Committee on the very valuable work they have accomplished in presenting such an interesting and helpful report. The House has criticised the recommendations of the committee in various directions and I realize that a committee of this nature, however impartial it may be in its recommendations, cannot expect to be free from criticism. As a matter of fact, the very nature of the work set before it must inevitably invite criticism. Surely recommendations which, if accepted *in toto*, will result in an ultimate saving of one crore and eighty-five lakhs of rupees, are deserving of very warm praise. I would point out to the House—and the House is no doubt aware of the fact—that this province is faced with a deficit in the neighbourhood of rupees one crore and sixty lakhs during the current year and it is, therefore, very necessary that something should be done to meet the situation.

Sir, I have heard to-day speeches referring to the fact that the committee's recommendations will inflict hardship on what can be termed the nation-building departments of the province, which are already suffering from lack of funds. The committee was asked to deal with the problem of retrenchment only and it was inevitable that such departments should along with others feel the blow of the axe of economy. I think, Sir, that help in the direction asked for can only come about when a financial adjustment of Bengal's finances is made with the Central Government. Financial assistance from the centre is the only way in which the departments referred to can be developed and expanded.

I may point out that it is not right to think that all the recommendations made by the Retrenchment Committee can be given effect to immediately! Of course, there are certain minor items of saving which can be effected at an early date. On the other hand, there are recommendations which present a more difficult problem and will take time to be examined, and, lastly, we have recommendations which, if given effect to, may impair the working of the administration of the province. Drastic economy may sometimes have the effect of impairing efficiency, which imperfection may in the long run cause loss and waste greater than the savings it was hoped to make. I am sure this fact will not escape the attention of Government.

I look upon the report as an excellent pointer as to where savings can be made and as to the possible avenues of retrenchment and it is for Government to examine the recommendations of the committee and see which of these can be given effect to immediately, also to consider those which require time to examine and give ultimate effect to.

I am sure that I need not urge upon Government to deal with the committee's suggestions in a courageous manner and to tackle the major problems of economy recommended without delay. In matters of this sort it is obviously unwise to take the easiest line indicated. We know that economies are already being put into force by Government, and for that matter some of the recommendations in the report can only take effect gradually. In conclusion, I would say that if the retrenchments suggested by the committee can be given effect to within the next two years, even to the extent of half the savings indicated, it will certainly be a matter upon which Government will deserve our congratulations.

The Hon'ble Mr. J. A. WOODHEAD: I do not at this late hour propose to inflict a long speech upon the House; I shall be as brief as possible. I should like at the outset to express on behalf of myself and my colleagues on the Treasury Benches, as well as of members of this Council, our gratitude to Mr. Swan and his colleagues on the Retrenchment Committee for their valuable report. Retrenchment, Sir, besides being unwelcome, is a problem which presents many difficulties and affords considerable ground for differences of opinion. And, I think, Sir, the speeches in this House to-day have indicated the difficulties which beset a Retrenchment Committee. In this connection there is one point to which I would like to draw the attention of the House; it is this, if members will turn to page 4 of the report, they will find that in Bengal during 1931-32 the expenditure per head of the population was Rs. 2·3, the second lowest in India, the only province with a lower expenditure per head being Bihar and Orissa, our neighbour. With such a low scale of expenditure I think we must all realize that the difficulties of a Retrenchment Committee are considerable; the smaller the margin, the more difficult it is to propose retrenchments which will not give rise to criticism.

Khan Bahadur Abdul Momin, in moving his resolution, explained that his motive was two-fold: first, to indicate the necessity of giving effect to the recommendations of the committee as early as possible; and secondly, to afford an opportunity to the members of the Council to discuss the recommendations. This also, Sir, is the spirit in which I propose to deal with the resolution. It is not possible for me to-day to announce the decisions of Government on the recommendations of the Retrenchment Committee. The report has not been in the hands of Government for very long, and in the short time available to them, it has been impossible for Government to come to a decision on the recommendations, with the exception of a few which naturally are of somewhat minor importance. But that does not mean that Government will not proceed as quickly as possible with the consideration of the report. Government recognise that retrenchment is essential. Our deficit this

year will not be in the region of Rs. 1,60,00,000 as indicated in the report of the committee, but nearer Rs. 2,00,00,000. Government fully realize that the recommendations of the committee must be examined as quickly as possible and that effect must be given to as many recommendations as we possibly can in the budget for 1933-34. I, Sir, as Finance Member cannot contemplate with equanimity a deficit of Rs. 2,00,00,000 on a total income of about Rs. 9,00,00,000.

In this connection, Sir, I would like to take this opportunity of explaining to the House, certain members of which perhaps may be under the mistaken apprehension that Government have taken no steps on their own initiative to effect retrenchments, what we have actually already done in the direction of reducing expenditure. We have, as a matter of fact, effected considerable retrenchment, but as I have already assured the Council, Government recognise that still more retrenchment is essential if we are to place the province in a sounder financial position. May I now explain what we have done: The retrenchments in the budget estimates of 1932-33, as compared with the budget estimates of 1930-31, amounted to a sum of Rs. 80,25,000. Of this sum, the 10 per cent. cut in pay represents approximately Rs. 37,00,000 and savings effected by Government by measures other than a cut in pay account for the balance. The actual expenditure for the year 1931-32 also indicates that we have effected a good deal of retrenchment. Our expenditure in 1930-31—I am now dealing with expenditure out of ordinary revenue—was Rs. 11,41,00,000. Our expenditure in 1931-32 was about Rs. 11,00,00,000, a saving of Rs. 40,00,000 in that year. In addition to that there is a sum of about Rs. 21,00,000 —the abnormal expenditure incurred in 1931-32 in the fight against the terrorist menace and the civil disobedience movement. If we could have saved that Rs. 21,00,000, expenditure in 1931-32 would have been less by Rs. 60,00,000 than in 1930-31. That, I think, Sir, is no mean achievement. But my object in placing those facts and figures before the House is not, however, to suggest that further retrenchment is not possible, but rather to explain that Government have not been idle, and, so to say, have not been sitting with folded hands pending the report of the Retrenchment Committee. We have already effected retrenchments, but we also recognise that further retrenchments will be essential in 1933-34.

I may say, Sir, that when I consented to this resolution being discussed, I expected that the general attitude of the House would be that Government must accept the recommendations of the Retrenchment Committee almost *in toto*. But somewhat to my astonishment the discussion this afternoon has been in the direction of indicating what Government should not accept rather than what they should accept. In so far as this has been the course of the discussion, I must admit a slight feeling of surprise, but still, Sir, the discussions have served a

most useful purpose in giving an indication to Government of the opinions, in my view valuable opinions, held by members of this House, and in coming to their conclusions on the recommendations of the committee, Government will certainly take into account the views expressed during the debate.

I have nothing further to add, Sir. But once again I would repeat that Government recognise, and recognize to the full, that further retrenchments are essential. At the same time I would remind the House that the acceptance of the recommendations of the committee must mean the adoption of a rather lower standard of administration and that our standard at the present moment is low enough indeed. But things being as they are, there is no other course but to effect retrenchment, so far as that is possible, without affecting seriously the efficiency of the administrative machine and making it impossible for that machine to function.

Mr. NARENDRA KUMAR BASU: May I, Sir, on a point of information ask the Hon'ble Finance Member if he proposes to take the Standing Committees of the different departments of this House into confidence when Government consider the question of retrenchment?

The Hon'ble Mr. J. A. WOODHEAD: It is rather difficult for the Finance Member to answer a question like that, Sir.

The resolution of Khan Bahadur Muhammad Abdul Momin was then put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Monday, the 12th December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Monday, the 12th December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT, of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 101 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Alaipur, Bishkhali and Satkhira khals.

*78. **Babu SUK LAL NAG:** Will the Hon'ble Member in charge of the Irrigation Department be pleased to state what action, if any, has been taken by Government to canalize the Alaipur khal, the Satkhira khal and the Bishkhali khal?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): An estimate was prepared for silt-clearance of the Alaipur khal and for construction of a lock and sluice on it at an estimated cost of Rs. 3,24,710, but Government are not satisfied that the expenditure will be justified.

An estimate was prepared for the re-excavation of the Satkhira khal at an estimated cost of Rs. 1,76,784 and forwarded to the Collector for action under the Bengal Agricultural and Sanitary Improvement Act.

No action has been taken as regards canalization of the Bishkhali khal and no such proposal appears to have been received.

Female education in Bankura.

*79. **Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware that the people of Bankura have already started a high English school for girls at Bankura in a house near the Bankura Zilla School with the help of honorary workers?

(*b*) Will the Hon'ble Minister be pleased to state what steps, if any, the Government are proposing to take to encourage female education in the said district?

MINISTER in charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Government were not previously aware of this.

(*b*) Financial conditions do not at present permit of Government giving material assistance to schemes for the extension of female education, but, as soon as those conditions improve, application for grants will be given careful consideration.

Kalkini Sub-Registry Office.

***80. Maulvi TAMIZUDDIN KHAN:** With reference to the reply to clause (*b*) of starred question No. 155 at the Council meeting held on the 26th August, 1932, will the Hon'ble Minister in charge of the Education (Registration) Department be pleased to state whether the Government are considering the alternative proposal of running the Sub-Registry office at Kalkini by appointing either the *Khas Tahsildar* of Kalkini or the Muhammadan Marriage Registrar of the place as an *ex-officio* Sub-Registrar?

MINISTER in charge of EDUCATION (REGISTRATION) DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): Government have considered the alternative proposal; they find that even this arrangement would result in the two offices at Madaripur and Kalkini working at a loss and they have come to the conclusion that, even apart from financial considerations, it is not desirable to make the arrangement suggested.

Chittagong Orphanage.

***81. Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) how many orphanages and *atimkhanas* are in existence in Bengal;

(*ii*) how many orphans and *atims* receive education in the different orphanages;

(*iii*) what is the amount that has been granted by the Government to the different orphanages and *atimkhanas*;

(*iv*) for how many years the *atimkhana* at Chittagong is in existence.

(*v*) whether the Government are aware that education on a variety of subjects is imparted to the orphans in the said *atim-khana* in Chittagong; and

(*vi*) whether the Government have made any grant to the same institution?

(*b*) If the answer to (*a*) (*vi*) is in the negative, are the Government considering the desirability of making any grant shortly?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) and (*ii*) Government have not the information available and regret that they are not prepared to undertake the laborious inquiry, which its compilation would involve.

(*iii*) A statement is laid on the table.

(*iv*) For about two years.

(*v*) It is understood that the Reformed Scheme Junior Madrasah course up to class IV, as well as some tailoring, is taught there.

(*vi*) and (*b*) No.

Statement referred to in the reply to clause (a) (iii) of starred question No. 81.

LIST OF ORPHANAGES IN BENGAL AIDED BY GOVERNMENT.

1. Calcutta Muhammadan Orphanage—Rs. 2,460.
2. Vidyasagar Bani Bhaban (Widows' Home, Calcutta)—Rs. 3,240.
3. Hindu Widows' Home, Dacca—Rs. 2,820.
4. Mission Orphanage, Mymensingh—Rs. 1,032.
5. Calcutta Orphanage—Rs. 600.
6. Dacca Orphanage—Rs. 600.
7. The Refuge, Calcutta—Rs. 3,300.
8. Sir Salimullah Moslem Orphanage, Dacca—Rs. 1,365.

Capitation grants for orphans are also made.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to let us know why he is not inclined to make any grant to such a valuable institution?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: First, because there is the financial stringency, and, secondly, because Government are not satisfied as regards the management of the orphanage itself.

Indians in Calcutta Port Commissioners' Office.

*82. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state whether as a general statement it is a fact that in recent years the Indians who are recruited for being trained as officers in the Port Trust are found usually to possess superior academic qualifications to those of the European or Anglo-Indian officers so recruited?

(*b*) Is it a fact that the Indians in the Port Trust are required to serve longer terms of probation than the European or Anglo-Indian probationers for the posts in the same rank?

(*c*) Is it a fact that at the time of promotion preferential treatment is invariably shown to the European and the Anglo-Indian in spite of the superior academical qualifications of their Indian colleagues?

(*d*) Is it a fact that the Port Trust have no regular or accepted system of examination or departmental test as in most of the Government posts, in order to judge of the merits and efficiency of its officers?

(*e*) Is it a fact that in the Port Trust there exists the system of departmental test, *i.e.*, grade increment and efficiency bar examinations, to test the capacity of those in the ministerial ranks only?

(*f*) Is the Hon'ble Member aware that the Indians are in overwhelming majority in the ministerial ranks?

(*g*) Is it a fact that the Calcutta Port Trust has not introduced departmental examinations to test the merits and efficiency of its officers even for those in the subordinate and junior ranks?

(*h*) If so, what are the reasons?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) No European probationers have been appointed during recent years. During the last three years the qualifications of probationers have been——

Traffic Department—

Indians—Three B.Sc.'s and one I.Sc. 1st Division.

Anglo-Indians—Three, all of whom had passed the Senior Cambridge.

River Survey Department—

2 Indians and 1 Anglo-Indian, all of whom passed through the *Dufferin*.

(*b*) and (*c*) No.

(*d*), (*e*), (*g*) and (*h*) In Government service there are as a rule no departmental tests except for probationers. In certain departments under the Port Commissioners, although not in all, departmental examinations are held. These examinations are not limited to the ministerial establishment. In the Traffic Department no ministerial officer is permitted to cross an efficiency bar until he has passed a written examination, and promotion to certain grades requiring special knowledge is also subject to passing an examination. In the Deputy Conservator's department departmental examinations are held for assistant harbour masters, berthing masters and certain other technical staff, and in the Chief Accountant's department a clerk is not promoted to be an audit inspector unless he has passed accountancy examinations.

(*f*) Yes.

Chaukidari tax realisation in Tamluk.

*83. **Mr. P. BANERJI:** (*a*) Is the Hon'ble Member in charge of the Police Department aware that the collecting *panchayats* in the Tamluk subdivision attach properties and sell them for *chaukidari* taxes not then due?

(*b*) Have any instructions been issued for the realisation of the tax for the whole year in advance?

(*c*) If the answer to (*b*) is in the affirmative, what is the authority under which the said instructions have been issued?

(*d*) Is the Hon'ble Member aware—

(*i*) that the *panchayats* do not give any receipts for the articles taken away;

(*ii*) what happens to the articles which are thus taken away;

(*iii*) that contrary to law, bullocks and agricultural implements are taken and sold; and

(*iv*) that persons exempted from taxation have been also deprived of their belongings in the name of attachment?

(*e*) What were the reasons which governed the action of Mr. Richardson in directing the destruction of the houses of Sj. Jogendra Nath Kalsa of Donipur and Sutahata and of many others in the same locality in the presence of special deputies and the Superintendent of Police and of the Officer-in-charge of the Sutahata thana?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) No such cases have been reported.

(*b*) No.

(*c*) Does not arise.

(*d*) (*i*) Receipts are always given when the assessee is present.

(*ii*) Articles attached are sold and the proceeds are credited to the *chaukidari* tax. Excess proceeds are refunded. In many cases the owner redeems the property before sale.

(*iii*) and (*iv*) Government have no reason to believe that cases of this nature have occurred.

(*e*) Mr. Richardson has never been to the village of Donipur or Sutahata nor did he order the destruction of any house.

Mr. P. BANERJI: Is the Hon'ble Member aware of the reason why these cases are not reported to Government?

The Hon'ble Mr. W. D. R. PRENTICE: No.

Mr. P. BANERJI: With reference to question (*d*) (*i*), will the Hon'ble Member be pleased to state why the assessee is always absent?

The Hon'ble Mr. W. D. R. PRENTICE: I am not aware that the assessee is always absent.

Mr. P. BANERJI: Is the Hon'ble Member aware that when the *panchayat* arrives at the house of an assessee for the realisation of the *chaukidari* tax with the help of the military police, the people always leave their homesteads?

The Hon'ble Mr. W. D. R. PRENTICE: Not always.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state how many of such cases have come to his notice?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice, Sir.

Mr. P. BANERJI: Is the Hon'ble Member aware that these *panchayats* arrive at the houses of defaulters with military police?

The Hon'ble Mr. W. D. R. PRENTICE: I cannot follow the question, Sir.

Quarters for troops in Dacca.

*84. **Dr. AMULYA RATAN GHOSE:** (*a*) Is the Hon'ble Member in charge of the Political Department aware (*i*) that the presence of the Dorsetshire Regiment in the town of Dacca is the cause of much annoyance to the people of the town; (*ii*) that the soldiers of the said regiment come to the city and play pranks with the people as for instance:—

(*1*) blocking the passage for wheeled traffic in spite of repeated alarm, as was done to Sj. Surendra Banerjee while he was going with his family in a *gharry* to the railway station,

(*2*) pulling down cyclists from bicycles as was done on Mr. Rajendra Lal Dey, lecturer of the Dacca University,

(*3*) lifting of stones in the Commissioner's office compound and throwing them on pedestrians with umbrellas on,

(*4*) taking away things from shops without paying any price,

(*5*) assaulting innocent persons like Sj. Kalipada Banerjee, a second year B.A. student of the Dacca University?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state (*i*) what steps, if any, the Government have taken to punish those soldiers; and (*ii*) what steps, if any, do they propose taking to prevent a recurrence?

(*c*) Are the Government considering the desirability of shifting the quarters of the soldiers at some distance from the Dhakeswari temple?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) (*i*) and (*ii*) No. When the regiment first arrived, there was occasional friction as the local inhabitants were unaccustomed to troops and the latter were strangers to Bengal. But suitable orders have been issued by the military authorities and the initial misapprehensions have now been removed.

(*b*) (*i*) and (*ii*) Do not arise.

(*c*) No.

Dr. AMULYA RATAN GHOSE: Will the Hon'ble Member be pleased to state what occasional frictions did occur?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid, I must ask for notice.

Babu JITENDRALAL BANNERJEE: With reference to question (*a*) (*l*), has the Hon'ble Member any information to furnish as regards the cases mentioned in the question?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid I have not got the details.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state what orders have been issued by the military authorities?

The Hon'ble Mr. W. D. R. PRENTICE: I do not know what the exact terms of the orders were, but the effect of the orders was to remove friction. I was informed the other day by the Vice-Chancellor of the Dacca University that everything was going on very well.

Director of Industries' office.

*85. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) the details and the nature of industries taught by the department;

(*ii*) whether the office of the Director of Industries is located in a rented house in the Free School Street;

(*iii*) what is the monthly rent and on how many years' agreement the house has been occupied by the said office;

(*iv*) when was the Bengal Tanning Institute established;

(*v*) what is its constitution;

(*vi*) what improvements have been effected in the tanning industry in Bengal since the inception of the institute; and

(*vii*) how many students trained in this branch of the industry have been profited by such training and how have they been employed?

(*b*) If the answer to (*a*) (*ii*) is in the affirmative, will the Hon'ble Minister be pleased to state the reasons why the office of the Director of Industries could not be located in the Writers' Buildings?

(*c*) Is the Hon'ble Minister aware that accommodation has been found in the Writers' Buildings for the Bengal Provincial Co-operative Bank, Ltd., and the Bengal Co-operative Organisation Society, Ltd.?

MINISTER in charge of AGRICULTURE AND INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): (*a*) (*v*) The member is referred to the annual reports of the Industries Department which are placed on the library table.

(*ii*) Yes.

(*iii*) The monthly rent is Rs. 879 on two years' agreement which will terminate on 23rd June, 1933.

(*iv*) The Bengal Tanning Institute was established in May, 1919, under the designation of the Calcutta Research Tannery.

(*v*), (*vi*) and (*vii*) The member is referred to the annual reports of the department.

(*b*) Government are considering this question, but a decision is not likely to be reached immediately, as it is not yet known what redistribution of accommodation in Writers' Buildings will be effected as a result of the various recommendations of the Retrenchment Committee. In any case the office of the Director of Industries cannot be removed till the termination of the lease of the present premises.

(*c*) The Bengal Co-operative Organisation Society, Ltd., left the Writers' Buildings in 1929; the Bengal Provincial Co-operative Bank is still accommodated there on payment of rent. The question of removing the Bank is being examined.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state if he is aware that a large number of non-officials visit the office of the Director of Industries?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: Yes, Sir.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Minister be pleased to state whether if the office is removed to Writers' Buildings, the non-official visitors will have to undergo examination at the hands of the police?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I am afraid, they will not have that free access to Writers' Buildings that they have now to the Industries' office, inasmuch as they will have to conform to the rules now in force for admission to the danger-zone of Writers' Buildings.

Mr. NARENDRA KUMAR BASU: Is the Hon'ble Minister aware that such a procedure is sure to cause great inconvenience both to the visitors as well as to Government?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: But this has been forced on Government, as the hon'ble member must be aware.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state whether the rent paid by Government is for the flat occupied by the Industries office or for the whole house?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I suppose the rent is for the Industries office.

Maulvi ABUL KASEM: Does the rent of the house also include rents for other offices such as offices under the Education Department?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I am not quite sure, and I must ask for notice.

3-15 p.m.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Minister be pleased to state if that is so, is it necessary that the office should be located in Free School Street and not in a cheaper quarter of the town?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: It was not possible to get the floor-area required for that office at a cheaper rent at the time when the building was taken. It was the cheapest house available then.

Maulvi ABUL KASEM: Will the Hon'ble Minister be pleased to state if there was no accommodation available in the Government of India Secretariat which has been vacated by the Government of India—I mean the Treasury Buildings?

The Hon'ble Nawab K. G. M. FARDQUI, Khan Bahadur: We have to pay rent there also.

Circle Officer, Jessore Sadar.

***88. Babu JITENDRA NATH ROY:** (*a*) Is the Hon'ble Member in charge of the Appointment Department aware that in the case setting aside the election by the Sadar local board, Jessore, the trying Magistrate found that Mr. Abdul Majid Khondker, Circle Officer, Sadar, has by his evidence supported a false story?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what action, if any, is being taken against the said officer?

(*c*) Has the Hon'ble Member received any complaints about this officer's dealings with the president *panchayats* of the subdivision?

(*d*) Are the Government considering the desirability of taking steps for his transfer from the station?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) Yes, but there is nothing to show that the circle officer knew the story to be false or that the Magistrate held that he did.

(*b*) No action has been taken.

(*c*) and (*d*) No.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state who was the trying Magistrate?

The Hon'ble Mr. W. D. R. PRENTICE: I think it was the District Magistrate.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state if it is a fact that petition for revision of the order is pending before the Minister?

The Hon'ble Mr. W. D. R. PRENTICE: No.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state how it is possible for a man to support a false story with his sworn testimony without knowing that it is false?

The Hon'ble Mr. W. D. R. PRENTICE: I think that is quite easy.

Internees and externees of Gaibandha.

*87. **Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*i*) how many arrests and convictions were made in Gaibandha (Rangpur) for offences in connection with the civil disobedience movement;

(*ii*) when was the last arrest made;

(*iii*) how many were arrested on the said occasion; and

(*iv*) how they have been dealt with?

(*b*) Are there any persons of Gaibandha who are under orders of internment and externment?

(*c*) Is it not a fact that the civil disobedience movement has subsided in Gaibandha and the subdivision has come to its normal condition?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state why the orders of internment and externment are being renewed month after month or after every two or three months?

(*e*) Are the Government considering the desirability of releasing the internees in and externees from Gaibandha soon?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) During 1932, 137 persons were arrested and convicted.

(*ii*) 21st April, 1932.

(*iii*) Three.

(*iv*) They were convicted under section 188, Indian Penal Code, and sentenced to rigorous imprisonment for 6 months.

(*b*) One person has been externed under the Special Powers Ordinance.

(*c*) The situation has improved but conditions are not yet normal.

(*d*) Does not arise.

(*e*) This will be considered when local conditions permit.

Kazi EMDADUL HOQUE: Will the Hon'ble Member be pleased to state with reference to answer (*c*) what sort of local condition prevails in Gaibandha?

The Hon'ble Mr. W. D. R. PRENTICE: The civil disobedience movement still remains there.

Depressed class candidates for Training colleges.

*88. **Mr. MUKUNDA BEHARY MULLICK:** Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the years 1930, 1931 and 1932 (*i*) the number of candidates admitted into the B. T. classes of the Training colleges at Calcutta and Dacca, (*ii*) how many of those candidates were M.A.'s or M.Sc.'s and B.A.'s or B.Sc.'s; (*iii*) the number of candidates for admission into these colleges from amongst the depressed classes; (*iv*) how many of the candidates from amongst the depressed classes were M.A.'s and how many of them were B.A.'s; and (*v*) how many of the candidates referred to in (*iii*) and (*iv*) above were admitted into these colleges?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: A statement is laid on the table.

Statement referred to in the reply to starred question No. 88.

			David Hare Training College, Calcutta.		Teachers' Training College, Dacca.
(i)					
	1930-31		61	..	82
	1931-32		63	..	81
	1932-33		71	..	86
(ii)					
	1930-31 ..	M.A.	17	M.A.	16
		M.Sc.	4	M.Sc.	5
		B.A.	32	B.A.	52
		B.Sc.	8	B.Sc.	9
	1931-32 ..	M.A.	18	M.A.	21
		M.Sc.	2	M.Sc.	4
		B.A.	33	B.A.	47
		B.Sc.	10	B.Sc.	9
	1932-33 ..	M.A.	17	M.A.	12
		M.Sc.	2	M.Sc.	5
		B.A.	45	B.A.	56
		B.Sc.	7	B.Sc.	13
(iii)					
	1930-31		5	..	4
	1931-32		9	..	5
	1932-33		13	..	14
(iv)					
	1930-31 ..	M.A.	2	M.A.	2
		B.Sc.	2	B.A.	2
		B.A.	1	..	
	1931-32 ..	M.A.	1	M.A.	1
		B.A.	6	B.A.	4
		B.Sc.	2	..	
	1932-33 ..	M.A.	1	M.A.	1
		M.Sc.	1	B.A.	13
		B.A.	10	..	
		B.Com.	1	..	
(v)					
	1930-31 ..	M.A.	2	B.A.	1
		B.Sc.	2	..	
		B.A.	1	..	
	1931-32 ..	M.A.	1	B.A.	1
		B.Sc.	1	..	
	1932-33 ..	M.A.	1	B.A.	2
		B.A.	2	..	

Dacca sewerage scheme.

*89. **Rai Bahadur SATYENDRA KUMAR DAS:** (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether adequate provision was made for the additional supply of water essential for flushing the sewers laid under the 25 lakhs sewerage scheme in the Dacca city?

(*b*) Will the Hon'ble Minister be pleased to state whether it is a fact that the expectations in the improvement in the Dacca city water-supply have not been realised by the 4½ lakhs improvement scheme?

(*c*) Will the Hon'ble Minister be pleased to state whether the last water improvement scheme in the Dacca city included any provision for the removal of the very thick incrustations inside big distribution mains?

(*d*) Is the Hon'ble Minister aware that by reason of said incrustations the distribution pipes have been seriously narrowed down and water pressure considerably reduced?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Yes. The sewers were to be flushed with water from the unfiltered water-supply scheme which was executed at almost the same time and also with sullage water from surface drains.

(*b*) The additional supply contemplated under the scheme is actually being provided.

(*c*) Provision was made for removing incrustation from pipes which were to be taken up and relaid elsewhere. Removal of incrustation from other pipes is a part of ordinary maintenance work.

(*d*) It is understood that in some old pipe lines there has been considerable incrustation. Whether this has considerably reduced pressures cannot be ascertained without extensive pressure tests.

Détenus from Faridpur.

*90. **Rai Sahib AKSHOY KUMAR SEN:** Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing, for the years 1930 and 1931 and 1932—

(*i*) the names, with age and places of detention, of the détenus who are residents of the Faridpur district; and

(*ii*) whether any allowance is being paid by the Government for the maintenance of the family of any of these détenus? If so, what amount?

The Hon'ble Mr. W. D. R. PRENTICE: (*i*) The totals for the years are as follows:—

1930—46.

1931—68.

1932—153.

Government are not prepared to publish the details.

(*ii*) Family allowances are given in all cases where an allowance is necessary. Government are not prepared to publish the details.

Damage to paddy crop in Bankura.

***81. Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware (*i*) that the late rains accompanied with winds have done immense damage to the paddy crop of the Bankura district by felling and merging in water the unripe blades of the corn; (*ii*) that this is apprehended to cause widespread distress among the people; and (*iii*) that the people of the district are already feeling the stings of want?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state what steps, if any, the Government are going to take in the matter?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) It is reported that damage to the extent of about one anna was done to the standing paddy crop in low lands only.

(*ii*) and (*iii*) No.

(*b*) Does not arise.

Poverty of Bankura people.

***82. Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware—

(*i*) that about 90 per cent. of the people of the Bankura district live on the produce of their lands and are very poor; and

(*ii*) that the unusual low price of the main produce in the district, *viz.*, paddy, has hit the people of Bankura very hard?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state what steps, if any, the Government have been contemplating—

(*i*) for the better marketing of paddy and rice; and

(*ii*) to help the agriculturists of Bankura in their utter helplessness?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) (*i*) According to the latest Settlement Report 79 per cent. of the total population of the district are dependent on the land for their livelihood, while 52·6 per cent. live by the cultivation of their own land. The majority of the cultivators are poor.

(*ii*) In this as in other districts the cultivating population have been adversely affected by the low price of paddy.

(*b*) (*i*) On the recommendation of the Indian Central Banking Inquiry Committee and at the instance of the Eastern Bengal, East Indian and Assam-Bengal Railway authorities the question of starting a system of railway warehouses in the chief centres of trade in this province by which produce could be collected and stored till it can be disposed of to the best advantage is being examined.

(*ii*) It has not been necessary to grant any agricultural loans for relief of distress in Bankura district. Inquiries are being made as regards the possibility of increasing the area under cultivation.

Noabad mahals of Chittagong.

*93. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) whether the practice of receiving revenue of all Noabad *mahals* under their jurisdiction in the sub-*tahsils* under the *khas mahals* of Satkania, Chittagong, was in use for a long time;

(*ii*) when did the sub-*tahsils* for the first time refuse to receive revenue above the sum of Rs. 10;

(*iii*) whether it is a fact that from that date the rate of realisation has been decreasing;

(*iv*) whether it is a fact that the hill ranges stand between the Satkania *khas mahal* and the Banskhali police-station;

(*v*) whether the Hon'ble Member is aware of the troublesome communication between the two thanas resulting in the death of many persons by the attack of wild elephants and tigers?

(*b*) Are the Government considering the desirability of reviving the practice followed by the sub-*tahsils* in former days? If not, why not?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) Yes.

(*ii*) In 1930.

(*iii*) No.

(*iv*) There is a range of hills crossed by paths.

(*v*) It is reported that many persons go daily by these paths but are seldom attacked by wild animals. One person was killed this year.

(*b*) No, because in the present state of the district the present practice is necessary.

Libraries.

***94. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing—

(*i*) the particulars of the libraries in Teachers' Training Colleges and Schools and Normal Schools in regard to the number of volumes of stock, average issue, name and qualification of the librarians, grade and the arrangements made for teaching the use of library; and

(*ii*) the names, date of appointment, grade, academic qualification and nature of training in librarianship of the librarians appointed in various colleges during the last five years?

(*b*) Is the Hon'ble Minister considering the desirability of—

(*i*) giving facilities to the librarians who are in service to undergo special training in librarianship; and

(*ii*) inviting applications from the properly trained librarians only for future vacancies in the post of librarians in the province only from properly trained librarians?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) The collection of the information required would involve considerable labour and Government regret they are not prepared to undertake the inquiry.

(*b*) (*i*) No.

(*ii*) The suggestion will be considered.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Minister be pleased to state with reference to answer (*a*) (*i*) how many training schools and normal schools are there in the province?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Minister be pleased to state whether there is any list of books kept in the libraries attached to the schools and a list of the number of books kept there?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have nothing further to add.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Minister be pleased to state with reference to answer (*b*) (*i*) the reasons for his answer in the negative?

The Hon'ble Mr. KHWAJA NAZIMUDDJN: It is not possible at the present time to do this.

Classification of prisoners.

***95. Babu SUK LAL NAG:** (*a*) Will the Hon'ble Member in charge of the Political (Jails) Department be pleased to state the total number of prisoners convicted in the Burdwan district during the civil disobedience movement in 1932?

(*b*) How many, if any, of them were placed in Division I or II by the trying Magistrate or the District Magistrate of Burdwan?

(*c*) How many, if any, have been placed in Divisions I and II by the Government?

(*d*) Is it a fact that Maulvi Abul Hyat of Burdwan, a first cousin of Khan Bahadur Muhammad Abdul Momin, lately Divisional Commissioner of the Chittagong Division and now a member of this Council, has been placed in Division III?

(*e*) What are the reasons for not placing the said prisoner Maulvi Abul Hyat as satisfying the conditions of the Jail Code, to be placed in Division I or II?

(*f*) Is it a fact that Sj. Jadavendra Nath Panja, M.A., B.L., and Manmatha Nath Sen, M.A., B.L., have all along been classed as Division III prisoners?

(*g*) Have Government taken any action in regard to the conduct of the then District Magistrate of Burdwan concerned for his failure to recommend prisoners for classification as required by the Jail Code?

(*h*) Are the Government considering the desirability of issuing instructions to the District Magistrates requiring them to classify prisoners as required by the Jail Code?

MEMBER in charge of POLITICAL (JAILS) DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) Two hundred and ninety-seven.

(*b*) Division II—7.

(*c*) Division II—7.

(*d*) Yes. Government have no information whether he is a cousin of Khan Bahadur Muhammad Abdul Momin.

(*e*) He did not apply for superior classification, nor did he place before the Court any information to justify higher classification. The trying Magistrate had no option but to place him in Division III.

(*f*) Yes.

(*g*) No. He has followed the revised rules for classification. The answer to (*e*) applies also to prisoners referred to in (*f*).

(*h*) No.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state with reference to answers (*f*) and (*g*) if the names and the titles of those gentlemen are not sufficient to show that they are men of education and social position?

The Hon'ble Sir PROVASH CHUNDER MITTER: If they would apply the matter would be considered.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if their title does not suffice to show that they are men of education and social position?

The Hon'ble Sir PROVASH CHUNDER MITTER: It might be they are content with their classification.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if that is so, what prevented the District Magistrate from classifying them at least as Division II prisoners? Very possibly their titles were not against their names as accused.

The Hon'ble Sir PROVASH CHUNDER MITTER: I cannot say.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if it is within the Hon'ble Member's knowledge that their title and position was unknown to the District Magistrate?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have no information either way.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if in that case he wants notice?

The Hon'ble Sir PROVASH CHUNDER MITTER: I do not want notice. If these prisoners apply, possibly they might be placed in a higher division.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state whether these prisoners did apply or not?

The Hon'ble Sir PROVASH CHUNDER MITTER: No. I have no information.

Babu SATISH CHANDRA RAY CHOWDHURY: Will the Hon'ble Member be pleased to state how does he know anything about the social status and education of a prisoner in order to arrive at a decision regarding his classification?

The Hon'ble Sir PROVASH CHUNDER MITTER: Not unless a prisoner applies. Our experience is very sad in these matters.

Subdivisional Forest Officer Mr. B. N. Roy.

*96. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Member in charge of the Revenue (Forrests) Department be pleased to state—

(*i*) whether Babu B. N. Roy, an Extra Assistant Conservator of Forests in Bengal, was appointed in the Forest Department on 29th July, 1909, as a Forester;

(*ii*) whether he has been domiciled in the Cooch Behar State from his father's time;

(*iii*) whether he claims to be a native of Hashara in Dacca though actually he has no homestead there;

(*iv*) whether he is serving for the last 25 years in the Buxa Division from Forester to the grade of Subdivisional Forest Officer;

(*v*) whether it is a fact that he is in the same division for more than 25 years, the entire period of his service; and

(*vi*) whether he was transferred to any other division; if so, for what period?

MEMBER in charge of REVENUE (FORESTS) DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*i*) Yes.

(*ii*) It is reported that he and his father have resided in Cooch Behar State.

(*iii*) He claims to be a native of Hashara, district Dacca, where he has a homestead. He has also ancestral landed property in pargana Bikrampur.

(*iv*), (*v*) and (*vi*) His total service up to November, 1932, is about 23 years 4 months. He has been serving for the entire period in the Buxa Division except for the following:—

(1) From the 31st October, 1913, to 10th October, 1914, when he was on deputation to the Kurseong Forest School for training.

(2) From the 8th September, 1920, to 16th January, 1921, in Cox's Bazar Division on transfer.

(3) From the 28th May, 1921, to 17th October, 1921, in Darjeeling Division on transfer.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state if he is aware of any other officer in the Forest Department who has been in the same station for 22 years?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: No.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether it is a fact that the Buxa Division is nearest to the Cooch Behar State?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Possibly.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state what is the special reason for retaining this officer in a division nearest to his home district for the last 22 years?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: I must ask for notice.

Cess revaluation in Chittagong.

*97. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) whether it is a fact that work of assessing cess and of issuing notices for the same is in use in Chittagong; and

(*ii*) whether the former rate, Rs. 10 per acre as annual value, is still being charged?

(*b*) Will the Hon'ble Member be pleased to state what steps have been taken to give effect to the recommendation of the Council carried on the 15th March, 1932, drawing attention to the excessive assessment of cess and the failure to take effective steps for its proper assessment?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) The revaluation was finished 6 months ago for the most part. Only the valuation of revenue-free estates has been going on since.

(*ii*) The Collector has been advised that the valuation of *khas* lands should be moderate. Government are not aware what rates are being charged.

(*b*) The member is referred to the answer given to his starred question No. 215 (*a*) at the last August session of the Council.

Agricultural schools and colleges.

***98. Maulvi ABDUL HAKIM:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether there are any agricultural schools or colleges in Bengal?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state—

(*i*) the number of such schools or colleges;

(*ii*) the places where such schools or colleges are situated;

(*iii*) the approximate number of boys at present studying in these schools or colleges;

(*iv*) the period or periods fixed for completing the course of study in these schools or colleges; and

(*v*) the approximate amount of money spent yearly for those schools or colleges?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) and (*b*) (*i*) One Government Secondary Agricultural School.

(*ii*) Dacca Central Agricultural Farm, Manipur.

(*iii*) Thirty-eight students at present, of which 14 are teachers deputed from different high English and middle English schools in which there are agricultural classes.

(*iv*) Two years' course commencing from 15th January.

(*v*) The average expenditure of last 3 years is Rs. 27,907.

Maulvi ABDUL HAKIM: Will the Hon'ble Minister be pleased to state with reference to answer (*b*) (*i*) the number of high schools and middle English schools in which there are agricultural classes?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: I must ask for notice.

Bansberia railway station platform.

***99. Mr. P. BANERJI:** (*a*) With reference to the reply given to starred question No. 83 at the Council meeting held on 29th February, 1932, will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state the present position of the Bansabati railway station platform in the waiting list for raised platforms in the East Indian Railway?

(*b*) Are the Government considering the desirability of instituting an inquiry whether in consideration of the density of passenger traffic and the income therefrom and the income derived from goods traffic the Bansabati station can claim prior consideration to the other seven stations and can be provided with a raised platform at an earlier date?

(*c*) Is the Hon'ble Member aware—

(*i*) that the East Indian Railway pays tax to the Bansberia Municipality for the holding consisting of the Bansabati railway station and the staff quarters;

(*ii*) that since the 1st of May, 1931, pure drinking water is being continuously supplied to the ratepayers by the said municipality;

(*iii*) that there is a stand-pipe adjacent to the railway boundary on the side of the road leading to the station;

(*iv*) that a new tube-well has been very recently sunk by the East Indian Railway not far from the municipal stand-pipe?

(*d*) With reference to the reply given to starred question No. 83 (*c*) on the 29th February, 1932, will the Hon'ble Member be pleased to state—

(*i*) what was the necessity for the expenditure on the sinking of a new tube-well not far off from the existing municipal stand-pipe; and

(*ii*) how the justification for not raising, owing to financial stringency, the station platform for public convenience arises?

MEMBER in charge of PUBLIC WORKS (RAILWAYS) DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) Seventh on the priority list of raised platforms at stations in the Howrah Division.

(*b*) No inquiry is necessary as the priority list was framed after investigation of the density of passenger traffic and the earnings of each station on the division.

(*c*) (*i*) Yes, but the imposition of the water rate has not been sanctioned by the Government of India.

(*ii*) The water-supply in the Bansberia Municipality came into operation with effect from 1st October, 1931, and not from 1st May, 1931.

(*iii*) Yes.

(*iv*) A tube-well at a very small cost was sunk before the municipal supply came into operation.

(*d*) (*i*) The question does not arise in view of reply to (*c*) (*iv*).

(*ii*) Only works affecting the safety of the line and efficient working are carried out during the existing financial stringency.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Member take it from me that that is not an authentic information?

Mr. PRESIDENT: That is not a question.

MUNINDRA DEB RAI MAHASAI: May I ask why such an absolutely wrong information is supplied to the members that the operation came into effect from the 1st October, 1931, and not from 1st May, 1931?

The Hon'ble Mr. J. A. WOODHEAD: I am not prepared to admit that it is wrong information.

3-30 p.m.

Mr. P. BANERJI: Is the Hon'ble Member aware that Munindra Deb Rai Mahasai is the chairman of the Bansberia Municipality?

The Hon'ble Mr. J. A. WOODHEAD: I did not know, Sir; I know

Mr. P. BANERJI: Does he not state that the water-supply in the Bansberia Municipality came into operation from the 1st of May and not from 1st of October?

The Hon'ble Mr. J. A. WOODHEAD: So I have heard.

Mr. P. BANERJI: Is the Hon'ble Member in a position to contradict that statement?

The Hon'ble Mr. J. A. WOODHEAD: I have only reported the information which I have received.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to make further inquiries in the matter?

The Hon'ble Mr. J. A. WOODHEAD: Yes, I am prepared to do so, Sir.

Collective fine in Chittagong.

*100. **Mr. SHANTI SHEKHARESWAR RAY:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state the information in possession of the Government upon which the Government have decided to realise a collective fine of Rs. 80,000 from the ratepayers of the Chittagong Municipality and residents of the area near the Railway Institute?

(*b*) Will the Hon'ble Member be pleased to state how many, if any, Hindu ratepayers or residents of the locality did help the raiders or in any way hamper the work of the police during or immediately after the occurrence?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Reference is invited to Notification No. 20726P., dated the 25th October, 1932.

(*b*) The number is not known.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member aware that the information I wanted is not to be found in that notification?

The Hon'ble Mr. W. D. R. PRENTICE: The notification contained the materials on which Government decided to issue their order.

Mr. SHANTI SHEKHARESWAR RAY: With reference to answer (*b*), will the Hon'ble Member be pleased to state what steps Government took to get the information?

The Hon'ble Mr. W. D. R. PRENTICE: We made no particular inquiries.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether, when we ask questions, Government do not intend to take any steps in the matter?

The Hon'ble Mr. W. D. R. PRENTICE: We give answers to questions; we do not decide about action in answers to questions.

Mr. SHANTI SHEKHARESWAR RAY: My point is this: we wanted information on certain matters, but Government have not taken any particular action to get information. Is it the position of Government that they do not want to give information when members may choose to ask questions and when those questions are admitted by the President?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid, as you must have noticed from the discussions on these questions, that a definite number cannot be stated.

Mr. SHANTI SHEKHARESWAR RAY: Is the Hon'ble Member in a position to contradict the statement that Government have no information?

The Hon'ble Mr. W. D. R. PRENTICE: Yes, Sir, I am.

Prosecution of a Calcutta gentleman for selling sweepstake tickets.

***101. SETH HUNUMAN PROSAD PODDAR:** (*a*) Is the Hon'ble Member in charge of the Police Department aware—

(*i*) that sweeps are run and printed circulars sent round by the Royal Calcutta Turf Club, the Rangers Club, Dalhousie Club and the Victoria Club and tickets and numbers for which are sold to the public;

(*ii*) that tickets for Irish Hospital Sweepstakes and numbers for the Royal Calcutta Turf Club Sweepstake on the Derby and St. Leger are sold by almost all banks, business houses, clubs and high Government officials; and

(*iii*) that printed circulars and forms for the allotment of tickets or numbers for the various sweeps are issued by various clubs and also available with the banks for the public?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state the reasons for the differential treatment in sanctioning the prosecution of a gentleman of Calcutta for selling Irish Hospital Sweepstake tickets?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Government are aware that certain clubs in Calcutta organise sweepstakes for their members, but it is understood that tickets are sold by these clubs to members only, and they are issued in the name of members only. They have no information as to the method of distributing tickets for the Irish Hospital Sweep.

(*b*) Proceedings in connection with lotteries can only be instituted on a complaint made by order of, or under the authority of, the Governor General in Council, the Local Government, or some officers empowered by the Governor General in Council in this behalf. An individual in Calcutta was recently prosecuted in accordance with the usual procedure. The question of differential treatment does not arise.

Babu JITENDRALAL BANNERJEE: Is it the Hon'ble Member's information and does he really believe that these sweepstake tickets are available to the members of the club only?

The Hon'ble Mr. W. D. R. PRENTICE: Yes, Sir, as far as I am aware.

Babu JITENDRALAL BANNERJEE: Is he not aware that these tickets are available to anybody and everybody who can pay Rs. 10-8?

The Hon'ble Mr. W. D. R. PRENTICE: I am certainly not aware of that, Sir.

Babu JITENDRALAL BANNERJEE: So far as the Irish Sweepstakes are concerned, is it not a fact that these tickets are available everywhere in Calcutta?

The Hon'ble Mr. W. D. R. PRENTICE: I have no information.

Babu JITENDRALAL BANNERJEE: Is it not a natural inference that these tickets are allowed to be sold by any and everybody?

The Hon'ble Mr. W. D. R. PRENTICE: I have no information

Babu JITENDRALAL BANNERJEE: Is the information at the disposal of Government so meagre in comparison with that at the disposal of the man in the street?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid it is; the man in the street has so many sources of information that are not open to Government.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state by whom these sweepstakes are controlled?

The Hon'ble Mr. W. D. R. PRENTICE: By Government.

Mr. NARENDRA KUMAR BASU: Are these controlled by an individual member or by the collective understanding of Government?

The Hon'ble Mr. W. D. R. PRENTICE: By the department concerned.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether these clubs take permission from Government?

The Hon'ble Mr. W. D. R. PRENTICE: No permission is required.

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Culturable lands in Bankura.

24. Babu SATYA KINKAR SAHANA: (*a*) Is the Hon'ble Member in charge of the Revenue Department aware—

(*i*) that the population of the Bankura district has been increasing;

(*ii*) that a great percentage of the acreage of the district has not been brought under cultivation; and

(*iii*) that the acreage under cultivation at present is not sufficient for the increasing population?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) what steps, if any, the Government have been taking or are contemplating for increasing the culturable acreage of the district; and

(*ii*) what encouragement have the Government been offering to private enterprise in the conversion of fallow lands?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) There has been an increase since 1921 but there was a decrease between 1911 and 1921, and the present population is less than it was in 1901.

(*ii*) Yes.

(*iii*) The area under cultivation is low as compared with the population dependent on agriculture.

(*b*) (*i*) The member is referred to the answer given to the starred question 102 (*iv*) asked in the last session of the Council. Inquiries are being made to ascertain by what methods the area under cultivation can be increased.

(*ii*) By encouraging the formation of co-operative irrigation societies with the object of excavation or re-excavation of irrigation tanks and construction of *bundhs* for storage of rain water for irrigation purposes. There are now 348 such societies in the district, and the works executed by them can irrigate a total area of 74,441 bighas of land.

Provincial Text-book Committee.

25. Rai Bahadur KESHAB CHANDRA BANERJI: (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether it is a fact that the number-bar was in force when the Provincial Text-book Committee began its work in 1930;

(*ii*) whether the number-bar was always adhered to in cases of books of equal merit; and

(*iii*) whether the number-bar has been superseded in cases of books on Bengali Literature and History for class III and Mathematics for classes III and IV as per list of text-books approved by Government and published in the *Calcutta Gazette* of November 13, 1930?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Minister be pleased to state why the Education Department at present adheres to the number-bar principle so strictly?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) Yes.

(*ii*) Yes, except in special cases on the recommendation of the Text-book Committee and with the approval of Government.

(*iii*) Yes, as special cases, with the approval of Government.

(*b*) The answer to (*a*) (*iii*) read with (*a*) (*ii*) does not indicate a change of policy.

Buriganga.

26. Rai Bahadur SATYENDRA KUMAR DAS: Will the Hon'ble Member in charge of the Irrigation Department be pleased to state what measures are being taken by Government to protect the lower reaches of the Buriganga of the Dacca city from risks of becoming unnavigable in the near future?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: The condition of the Buriganga River is continually under observation by the Irrigation Department. Though the supply in the river has decreased this year, the river is still navigable and there is not yet any indication that it will become unnavigable in the near future.

Old railway materials at Rajbari.

27. Rai Sahib AKSHOY KUMAR SEN: (*a*) Will the Hon'ble Member in charge of the Public Works (Railways) Department be pleased to state whether there are old railway materials lying within the jurisdiction of the railway subdivision of Rajbari (Eastern Bengal Railway)?

(*b*) If so, will the Hon'ble Member be pleased to state how many miles of railway (single line) can be constructed with those materials?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Yes, secondhand track materials are kept for emergency shifting of Goalundo Ghat.

(*b*) At the present time the materials are sufficient to construct 3·2 miles of track (single line).

Publication of sale notices.

28. Rai Sahib AKSHOY KUMAR SEN: (*a*) Is the Hon'ble Member in charge of the Judicial Department aware—

(*i*) that a very large number of registered notices sent to the judgment-debtors in rent execution cases under section 163, sub-section (*3*), clause (*c*) of the Bengal Tenancy Act, were returned to the civil courts at Faridpur, some unserved and some with postal peon's endorsement as being refused;

(*ii*) that the discontinuance of publishing rent execution sales in local papers at Faridpur has caused great disadvantage to the judgment-debtors;

(*iii*) that it is generally held that this discontinuance of the practice of publishing such sales in local papers has encouraged collusive fraudulent sales?

(*b*) Are the Government considering the desirability of restoring the practice of publishing such sales in local papers?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) (*i*) Yes.

(*ii*) and (*iii*) Government are not in possession of any facts to justify such an inference.

(*b*) The member is referred to the answer to starred question No. 32 (*b*) given to Maulvi Tamizuddin Khan during the present session.

Moslems in Public Health Laboratories.

29. Nawabzada KHWAJA MUHAMMAD AFZAL, Khan Bahadur: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to lay on the table a statement showing for the last three years—

(*i*) the number of ministerial officers in the cholera and excise laboratories; and

(*ii*) the number of Muhammadans amongst them?

(*b*) If the answer to (*a*) (*ii*) is nil, will the Hon'ble Minister be pleased to state the reasons therefor?

(*c*) Are the Government considering the desirability of taking Moslem officers in future vacancies?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) (*i*) There is one temporary clerk in each of these laboratories.

(*ii*) None.

(*b*) The rule about employing a proportion of Muhammadans cannot be applied to such small establishments. There are 5 Muhammadan clerks out of the total number of 13 clerks in the subordinate offices of the Public Health Department.

(*c*) No.

Publicity Board.

30. MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Member in charge of the Political Department be pleased to lay on the table a statement showing—

(*i*) the names of the present members of the Publicity Board;

(*ii*) the amount of remuneration or allowance given to each of them;

(*iii*) the names of the present writers of publicity pamphlets;

(*iv*) the amount, if any, paid to them as remuneration or allowance;

(*v*) the amount realised from the sale of the pamphlets; and

(*vi*) the number of pamphlets distributed during the current year?

The Hon'ble Mr. W. D. R. PRENTICE: (*i*), (*iii*) (*iv*) Government are not prepared to give information on these points.

(*ii*) No remuneration or allowance is given to any member of the Publicity Board.

(*v*) Rs. 276-4-0.

(*vi*) 24,00,000.

SHORT NOTICE QUESTION.

Civil courts and Jumma prayers.

30A. Khan Bahadur Mauivi AZIZUL HAQUE: Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether any decision has been arrived at by Government in regard to the suspension of work in civil courts with a view to affording facilities for *Jumma* prayers and, if so, what?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): Government are informed that the High Court have decided to provide by rule for the suspension of sittings of all civil courts subordinate to High Court on every Friday between the hours of 12-30 to 2 p.m. with power to District Judges to vary for special reasons the hour of commencement of the period which shall always be one and a half hours. Work in the offices attached to the courts will not be suspended during this period, provided that Muhammadan employees of Government should, if they so desire, be permitted to absent themselves during the time the courts are closed and that other Muhammadans having business in the offices be not required to attend during that time.

LEGISLATIVE BUSINESS

GOVERNMENT BILLS.

The Calcutta Municipal (Second Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I beg to present the report of the Select Committee on the Calcutta Municipal (Second Amendment) Bill, 1932.

The Bengal Public Security Bill, 1932.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the Bengal Public Security Bill, as reported by the Select Committee, be taken into consideration.

Mr. P. BANERJI: Mr. President, Sir, I beg to move, by way of amendment, that the Bill be recommitted, and my reason for doing so

is that in the short time at the disposal of the members of the committee I think that proper consideration of the Bill has not been possible. It has also been found that some members could not take part in the proceedings and above all the most vital question of consulting different interests was not considered. Practically the opposition was not represented and opposition, I consider, is essentially necessary in order to give the Government another opportunity to consider this Bill in detail. Sir, I find that in the Select Committee's report no improvement has been made in this Bill excepting in one clause where an insertion of a few words has been made at the instance of the members of the *Praja* party. That is the only improvement made by the Select Committee. Again, I find that several members including the Hon'ble Mr. Prentice himself have given notice of an amendment for deleting that portion—the most important portion put in by the majority—at the instance of the members of the *Praja* party. Sir, if this is the way in which an important measure like this, the provisions of which will bring untold miseries to the people, is going to be enacted, then I say that no useful purpose has been served in the Select Committee. Sir, I have to point out that this subject—the Public Security Bill—is most unpleasant, but I ask who has brought about the necessity for the enactment of such a Bill. The Hon'ble Mr. Prentice while speaking the other day made certain remarks and I think I must allude to those remarks, particularly those regarding myself. I was alluded to as the mouthpiece of unsubstantiated allegations in this respect. I can tell the Hon'ble Mr. Prentice that I have neither the time nor inclination to make false statements or unsubstantiated allegations. When I made those statements, I made them with a full sense of responsibility and I said that I was prepared to take full responsibility for them if the Hon'ble Member chose to appoint a committee of dispassionate members which would make proper inquiries and I further said that I would substantiate my allegations. The Hon'ble Mr. Prentice did not take up that challenge and did not say that Government was prepared to make any inquiry in the matter. Sir, it is the duty of every civilised Government to make inquiries whenever such allegations are made, but here the Hon'ble Mr. Prentice instead of accepting the challenge went so far as to make uncharitable remarks, by saying "Mr. Banerji was gathering muck." May I inquire whether that muck was the creation of myself or the creation of the satellites of the Hon'ble Mr. Prentice? If the Hon'ble Member had been in my position, would he have hesitated to say the truth even if that be an unpalatable truth? It may be an unpalatable truth, but it must be faced, and we as representatives of the people must say that the members belonging to a civilised Government are going about and creating havoc in the country——

Mr. PRESIDENT: Why do you want to recommit the Bill? You have not said anything about that.

Mr. P. BANERJI: I have given so many points, Sir.

Mr. PRESIDENT: What are the points?

Mr. P. BANERJI: Sir, I submit that if an important measure like this is not considered properly, then it would rather worsen the situation than what it is now, if this Bill is passed into law. That was my point and in that connection I was referring to the uncharitable remarks made by the Hon'ble Mr. Prentice including the personal remarks against myself. Is it the view of the Hon'ble Member that the members of this House are not entitled to give vent to their feelings with regard to the condition of the people?

3-45 p.m.

Mr. PRESIDENT: I am very sorry to interrupt you Mr. Banerji, but that question does not arise. You should give us reasons and advance arguments as to why you want the Bill to go back to the committee: you should tell the House what the committee has done, and what points you want the committee to reconsider.

Mr. P. BANERJI: I have given my points, one after another, and have kept to my points, and if you like, I can repeat the whole of them. The whole thing, as I say, Sir, could not be fully examined by the Select Committee in the shortness of time at its disposal; so it was not possible for them to do full justice to the Bill, and, therefore, no improvement has been made except in respect of one single amendment only, namely, sub-clause 26(*a*): that is only what the Select Committee has been able to do. Moreover, Sir, the opposition was not represented on this committee. So it is in the fitness of things that the Government must not, as it always does, appoint a committee composed of persons who are mostly of the same view of thinking. When a Bill of such importance is committed to a Select Committee, it should be the duty of every Government to hear any criticisms that might be put forward, especially in respect of a Bill like this. But with opposition unrepresented it has not been possible to do that: that is my point, Sir. With these words, I beg to move my motion.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, in attacking the constitution of the Select Committee Mr. Banerji is attacking a previous decision of this Council. For, it is not Government which appoints a Select Committee. Government only puts down a certain motion on the paper and it is for the Council to accept or reject the motion as it pleases. The Select Committee was constituted in accordance with the vote of this Council, and so far as I recollect, no division was even

taken upon it. Therefore, when Mr. Banerji is attacking the personnel of the committee, he is attacking a decision of the Council.

As regards the work of the Select Committee, members have had the report in their hands for some time. Mr. Banerji says that for shortness of time they could not examine the Bill thoroughly. But if he reads the report, he will find that they went through the Bill clause by clause, and I think they have suggested seven or eight substantive amendments which Government have embodied in the Bill as presented to the Council. On one point only there was a difference of opinion. With regard to clause 26, the report of the Select Committee specifically states that the majority consider that so far as rent of agricultural land is concerned, it is unnecessary and undesirable to give power to the Collector to recover such rent on behalf of the landlord by the certificate procedure.

Like the remainder of the House Government, too, have their right to put down amendments, and we have accordingly tabled two amendments on that clause; but it will be for the Council to decide whether they will accept the Bill as it has emerged from the Select Committee or will accept the Government amendments. I do not think there is any justification for recommitting the Bill. It would only mean reopening the whole thing and having a new Select Committee, which would be very dilatory, and I imagine that is what Mr. Banerji wants.

Dr. AMULYA RATAN GHOSE: I beg to support the motion for recommitting, and my reasons are these that when the Bill was discussed in the Select Committee, they were not in possession of the amendments which came later; moreover, the difficulty of these amendments being thoroughly discussed and debated upon by the whole House is obvious. Supposing members move amendments and those amendments are opposed by some members——

Mr. PRESIDENT: What are the amendments you are referring to?

Dr. AMULYA RATAN GHOSE: The amendments that are being made now on the report of the Select Committee in connection with this Bill.

Mr. PRESIDENT: That is absurd.

Dr. AMULYA RATAN GHOSE: That is never done, Sir, but my view is that if the Select Committee could again consider the amendments just now before the House, they could be properly considered by the committee to which this Bill should be recommitted.

Reverend B. A. NAG: On that principle every Bill should have to be recommitted.

Dr. AMULYA RATAN GHOSE: Moreover, I have seen that Bills which are discussed on the floor of the House are not discussed to the fullest satisfaction of the members of this House and, therefore, in the light of the amendments which have appeared before the Council now—if this Bill is again recommitted—those amendments might be considered, debated and discussed very well, in fact, better than it is possible to do in the open Council. When that report will come out before the Council again there will not be so many amendments and there will be no necessity for this elaborate discussion and debate.

Rai Bahadur KAMINI KUMAR DAS: Sir, I beg to oppose the motion of Mr. Banerji for recommitting the Bill. You are laughing and also using big words, because it is the privilege of the members of the House to utter on the floor of the House as big words as their mouths could contain, and that is why you are saying that the Bill has been considered in Select Committee only by the satellites of the Hon'ble Mr. Prentice. But why you should say so, I fail to understand. You are challenging and saying that the Select Committee has done nothing. But come forward and say where the Select Committee has been in the wrong. You point to section 26 and say that although the committee amended that section, Government did not accept it but have, on the contrary, tabled a counter-amendment. We too have our say on the subject. If the Bill is recommitted, where is the guarantee that it will go to better hands and how do you think it can be considered in a clearer and better atmosphere? On the other hand, the Bill is now before the House; its sections are not too many and you can consider it section by section on the floor of the House, but instead of doing that, why should you say that it has been considered only by the satellites of Mr. Prentice, and that it should again go to a Select Committee?

Mr. P. BANERJI: I never said that.

Rai Bahadur KAMINI KUMAR DAS: I distinctly remember that these words were used and I take strong exception to them. Sir, I do not see what ostensible purpose would be served by recommitting the Bill and I oppose the motion.

The motion of Mr. P. Banerji was then put and lost.

Mr. PRESIDENT: The question is that the Bengal Public Security Bill, 1932, as reported by the Select Committee, be taken into consideration.

The motion was put and agreed to.

Clauses 1 and 2.

Mr. PRESIDENT: The question is that clauses 1 and 2 stand part of the Bill.

The following motion was called but not moved:—

Maulvi HASSAN ALI to move that after the first proviso to clause 1(*4*) the following be inserted, namely:—

"Provided further that the Local Government shall not direct that any provision of these chapters shall come into force in any area unless and until it has beforehand applied all moral persuasions and other ordinary legal means to maintain the public peace of such area and has found that such persuasions and means have been of no avail to the maintenance of the public security."

Mr. ANANDA MONAN PODDAR: I beg to move that for clause 1(*5*), the following be substituted, namely:—

"(*5*) This Act shall remain in force till six months after the date of the inauguration of the new constitution in Bengal."

Sir, this is a piece of legislation which ought not to go on for a single day longer than it is required. We honestly feel that these measures are not the proper remedies for the great evil which is confronting us at present. The ordinances and other repressive measures have been in the country for a pretty long time. One measure after another has been placed on the Statute Book, but the problem has not been solved in any satisfactory manner. This is our experience during the last few years. The terrorist activities have never disappeared—but the ugly movement is gaining ground day by day. I know it is the duty of the Government to check the terrorists, and I know also that it is our duty to help the Government in eradicating this evil. Sir, if we could honestly believe that a measure of this kind would effectually deal with the terrorist movement in the country, we would readily give our unstinted support to the Government for the purpose of putting such a measure on the Statute Book. But, Sir, we honestly believe that the policy of repression is not the only policy to eradicate the menace of anarchism. On every occasion we have given expression of this honest belief of ours and we are repeating it over again.

If the coming reforms be satisfactory and acceptable to the people, there is no doubt that the discontent in the country will vanish in no time. We are prepared to wait for that happy day, and we wish that the inauguration of new reforms will usher in peace and prosperity in the land. But instead of waiting for that desirable change in the

situation, the Government, by the inclusion of this section in this Bill, have displayed that they have no faith in the prospects of the new reforms.

Sir, if unfortunately the present Government be unable to change its policy, we have no right to tie up the hands of the future Government by giving it a long lease of life. The new reforms may change the outlook altogether. The Government to come will be the best authority to judge whether it should tread on the old path or adopt a new policy. If after the introduction of the new reforms, the Government find no necessity of continuing these repressive measures, why should we allow them to remain in force for a longer time.

For the above reasons I move that this Act shall remain in force till six months after the date of the inauguration of the new constitution.

MUNINDRA DEB RAI MAHASAI: Mr. President, Sir, I am sorry to differ from the views of my friend, Mr. Poddar. Perhaps he is suffering from a sort of hallucination about the future constitution of the country. The trend of events here and at Home portends greater evils than at present anticipated. There is no indication from responsible quarters about the readjustment of the finances of the province. The perpetuation of the Meston award is almost certain. On the plea of combating terrorism, the whole country is being garrisoned. Disappointment looms large in the horizon. The new constitution will not satisfy those who want substance of freedom. The people have got tired of running after shadows. For want of funds the new Government will not be able to discharge its legitimate duties properly and the limitations and safeguards that are likely to be imposed, will irritate the people and there will be greater discontent and consequent unrest in the country. To cope with any attempt at civil commotion, which is not likely to occur, the military has been kept ready at hand to take immediate and prompt action to nip it in the bud. In the circumstances, it is idle to expect an atmosphere of peace and tranquillity six months after the inauguration of the new constitution. If the Public Insecurity Bill, as I should like to call it, is to achieve its end, it would require prolongation rather than curtailment of its lease of life. Of course, I have no doubt, the Bill under discussion will prove as inefficacious a remedy to cope with terrorism as the other kindred Bills sponsored by the Home Member during the last few months.

With so many swords of Damocles hanging over their heads, the life of the people is, no doubt, becoming miserable. If there is any likelihood of the lessening of their sufferings by the shortening of the lease of life of the Bill, I should gladly support the motion of my friend Mr. Poddar.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause I (*5*), in line 2, for the figures "1935" the figures "1933" be substituted.

Such a Bill, if passed into an Act, should not be allowed to have a very long lease of life, because it is expected that better things will prevail in the near future, and for that reason, if this Bill be at all enacted, then it shall be enacted for the period that is expected to be required for it and not longer than that. Sir, we do not believe in this sort of Bill having any good effect upon the country. Still, however, as this Bill is going to be enacted, let it not be enacted for a period which will not be necessary. And that is why I have proposed in my amendment that the Bill should have currency for one year only.

4 p.m.

And if this Bill is enacted into law and is allowed to operate for one year only, then it could be seen whether it had produced any results, good or bad. If after a year it is found by the future Government that this Act should remain in operation for a longer period of time, of course that Government can do that without any difficulty, as the present Government are doing it now. I submit, Sir, that for this reason this Bill should be enacted only as a measure of experiment and and that, too, for a period of one year only. If, however, it is found within that one year that the Act should remain in the Statute Book as a necessary weapon to cope with the disturbances that this Bill seeks to stamp out, of course, then and then only, Government, as well as members of this House, should consider whether the Act should remain in force or not.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move the amendment standing in my name.

I beg to move that in clause 1(*5*), in lines 1 and 2, for the words and figures "thirty-first day of December, 1935", the words and figures "thirtieth day of June, 1934" be substituted.

Sir, I do not think it is necessary at this stage to voice the opinion that I myself and several other members of this House have got on the wisdom or unwisdom of bringing forward measures like this Bill. That has been ventilated times without number on the floor of this House, and, Sir, especially so, when this Bill was introduced. I do not think there is any reason to suspect that the question of the unwisdom of bringing forward a measure of this description is an open question now, and, Sir, you have already seen that the Bill is much too serious to be trifled with. In fact, Sir, when an hon'ble member of this House

wanted to be sarcastic about the provisions of this Bill a few minutes ago, we were reminded of the story of the Duke of Devonshire yawning in the middle of his speech. Referring to that matter later he, it is said, admitted that he was bored by his own eloquence. Here, we have had the spectacle of an hon'ble member being bored in the middle of his speech by his own humour or want of it.

I do not at this stage question the wisdom of this Bill, but what I want the Government members to remember is that it has been said, and said very often, that the new constitution will usher in provincial autonomy either in 1933 or, at the latest, by the beginning of 1934. I want to put the question as to why Government are so very anxious to keep this piece of legislation in the Statute Book if the National Government find that an instrument of this description is not to their liking. Well, Sir, if my amendment is carried, the Act will come to an end by the 30th of June, 1934, that is, six months after the new constitution begins to function. If the new Government find that it is necessary to have a weapon of this description in their armoury, well, then the representatives of the people, who will be functioning at that time, will have no difficulty in carrying a measure like this.

I do submit, Sir, that it is not proper for the present bureaucratic Government to forge this measure in anticipation of the views of the new popular Government which we have been promised, and thus, leave this weapon in their hands for nearly two years.

It may be argued just as well that should it not be liked by the new Government, they may at once bring in a Bill to repeal it. But I do not understand why such a repressive measure should be handed over to your successors when you know that your lease of life as Government was coming to an end by the end of 1933. Sir, I beg to submit that my proposal is not unreasonable, inasmuch as by this proposal I raise no objection to having this measure on the Statute Book for six months after the inauguration of new reforms.

Maulvi HASSAN ALI: Sir, I beg to move that in clause 1 (*5*), in line 2, for the figures "1935" the figures "1934" be substituted.

Sir, the Bill intends to give a lease of life for three years, and mine is a modest proposal. We hear off and on from Government servants that the civil disobedience movement is on the wane, and that it has subsided. In view of that, Sir, I do not understand why the Hon'ble the Home Member wants to give a three years' lease of life to this piece of legislation, which is a temporary measure of an emergent character. From the answer of the Hon'ble Member to to-day's question No. 87 of Kazi Emdadul Hoque, it appears that he admits that the situation, at least in some parts of the country, has improved

as regards the civil disobedience movement. If that is so, Sir, I do not think there is any reason against this modest proposal of mine. I, therefore, request the Hon'ble Member to accept my amendment.

Babu SATISH CHANDRA RAY CHOWDHURY: Sir, while I should like to support the previous speaker, who said that any emergent or repressive measure passed by this House should not continue one day longer than the term of the present Council, I find some difficulty in making a choice of the particular amendment regarding the duration of this legislation, which I should like to support. I think the Hon'ble Mr. Prentice may be right in asking this Council to keep this legislation in force till 1935. It may be true that he is not at all willing to hand over a bad legacy of a measure like this to the future Government, and, probably, he knows full well that no reforms will be coming before 1935. Therefore, it may be that he is aiming at the same thing that Mr. Poddar and others are aiming at. Mr. Poddar wanted that this piece of legislation should not remain in force till after the inauguration of the reformed constitution.

Sir, it seems to be the expectation of Mr. Basu that we shall have an autonomous provincial Government by June, 1934, but it may be that he is totally mistaken in his expectation. We ought to give more credit to the Hon'ble Mr. Prentice for his knowledge of what is happening *in camera* in London. In that view, it would be quite correct, if the Hon'ble Mr. Prentice were more outspoken and had told the House that the reforms would not come before 1935. Had he done so, I think we should have no hesitation in lending our support to the Bill.

Sir, it is for the serious consideration of Government whether such emergent measures should be allowed to last longer than they were absolutely necessary. Furthermore, Government think that, as a matter of fact, these measures are experimental: and they have never assured this House or the country at large that this experiment of launching repressive measures is bound to succeed. Sir, if it is real self-government or autonomy which we are going to have, and if the present Government have any faith in the coming reforms and in the Ministers who will represent the future Government, and in the future members of this Council, who will probably be more representative than we are, of the people, then, in that case, a free hand should be given to them to deal with the situation as they find it in the coming years, and they should not be hampered by any legislative measure like this. If this legislation continue to remain in force after the new Government comes into existence, the difficulty will be that though the new members of the Council will not like such repressive legislation, Government will be bound to lend support to what had been enacted

by their predecessors until the Act is repealed. There will be great friction between the Council and Government, which will create more and more difficulties.

Sir, as the responsibility of the present Members of Government does not extend beyond their tenure of office, I do not find any reason why they should be so anxious to see this piece of legislation last longer than the period for which they will be in power. Apart from questions such as whether these measures are really effective in dealing with the present situation, or, whether they are of the nature of an experiment as Government would have us believe, there is no reason for their continuance beyond the present term of the Council.

Sir, after the reforms are inaugurated, the future Government will deal with this question as they like, and on that ground I lend my support to the amendment of Mr. Poddar, although, I submit, we do not know when the reforms are coming and whether there will be *real* reforms in the sense in which we understand them.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, as a member of the Select Committee, which considered this Bill, I owe to the House an explanation. Though some of us were in favour of minimising the operation of this Act, we ultimately accepted the provision that it should operate till 1935. I am drawing the attention of the hon'ble members of this House to the fact that so far as this Bill is concerned, it is an improvement on the original Bill, *viz.*, that the Local Government should have the power to withdraw the provisions of this Bill, should they think it necessary.

Sir, under the new constitution, if the new Government find that this piece of legislation was not at all desirable or that it was not at all necessary, it would be open to the new Government either to withdraw some of the so-called obnoxious provisions of this Bill or to repeal the Act. That is one aspect of the question, Sir.

The second aspect of the question is this. Is the civil disobedience movement—against which this Bill is aimed at and regarding which some members are quite anxious to give powers to Government to control the movement—going to end with the advent of the new constitution? That is an assurance which no one can—at least, I myself cannot—give. In this view of the facts, I am afraid that hon'ble members should not hesitate to arm Government with these new powers for dealing with the civil disobedience movement. In any case, Sir, perhaps, my friends will have no objection to give these powers to Government till, at least, the new Government functions. I should like to put this question to the House whether these powers should have currency for a longer period. These two aspects of the question should weigh with my friends here.

I am, however, strongly of opinion that this Act should not last a day longer than is absolutely necessary.

4-15 p.m.

I not only feel, but feel very strongly, that apart from what the new Government may do, if this Government think that it is no longer necessary, it will see its way to withdraw the provisions of this Bill. In view of that we accepted the date "1935" in the Select Committee.

The Hon'ble Mr. W. D. R. PRENTICE: Some of the speeches which have been made have made clear the difficulty in which Government are placed. For I am afraid I am not in the know, as Mr. Satish Chandra Ray Chaudhury has suggested that I was, nor am I a prophet, —I cannot say when the new constitution is going to come in. If Government were in a position to say that it would be infinitely easier for them to put a date in this Bill. As I explained while moving the reference of this Bill to the Select Committee, we consider that our responsibilities do not end with keeping things quiet while we are in power, but we are also responsible for handing over the machinery of Government running as smoothly as possible with all the tools and lubricants which are required to keep it going. We are perfectly satisfied as to what is required while we are in power, but we feel that we are also responsible for seeing that the new Government, when it comes into power, should have the same facilities.

Khan Bahadur Maulvi Azizul Haque has explained what was in the minds of the Select Committee when they agreed to the date in the Bill, but the position is even stronger than he put it because the word in the second proviso to clause 1 (4) is "shall"; it is not a question of "may". Under the Bill, as drafted, the Government shall withdraw the provisions of it as soon as they are satisfied that the areas in which they have been extended are quiet and do not require such a measure. If, as every one hopes, things get quiet all over, then the Bill, though it is on the Statute Book, will not be enforced in any area. But when the new Government comes in, if there is civil disobedience continuing or civil disobedience is aroused against the new Government, the Bill will be on the Statute Book for them to use it if they so desire. It can only come into force by their decision; they will be perfectly free to decide whether the Bill should be brought into force or not. It cannot be brought into force until they decide to issue a notification for bringing it into force. I do not think there is any harm in keeping these powers in the hands of the future Government. We are giving them facilities which, we are satisfied, are required to deal with such a situation. We are leaving to the new Government which will come into power a Bill which they can use if they are satisfied that conditions require it.

(At 4-20 p.m. the Council was adjourned for prayer and it reassembled at 4-35 p.m.)

The motion of Mr. Ananda Mohan Poddar was put and lost.

The motion of Dr. Amulya Ratan Ghose was put and lost.

The motion of Mr. Narendra Kumar Basu was put and lost.

This motion of Maulvi Hassan Ali was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kisheri Mahan.
Choudhury, Maulvi Murai Absar.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Heque, Kazi Emdadul.
Maiti, Mr. R.
Mookerjee, Mr. Syamapresad.
Poddar, Mr. Ananda Mohan.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Roy, Babu Jitendra Nath.
Roy Choudhuri, Babu Hem Chandra.
Samad, Maulvi Abdue.
Sen Cupta, Dr. Haresh Chandra.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Lesson, Mr. C. W.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Sen, Rai Sahib Akshoy Kumar.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 24 and the Noes 61 the motion was lost.

Mr. PRESIDENT: The question before the House is that clauses 1 and 2 stand part of the Bill.

The motion was put and agreed to.

4-45 p.m.

Clause 3.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 3, in line 1, before the word "officer" the word "gazetted" be inserted. Now that this Bill is going to be an Act, our attempts are made towards mitigating the unnecessary rigours of the Bill as far as may be possible and practicable. I find that in clause 3 (*1*) it is proposed that any officer of Government may be given certain unlimited powers. I do not know what the idea of the Hon'ble Member in charge of this Bill is. If he wants "any officer" to include even a constable or peon, who is an officer of Government in a certain sense of the term, then certainly it is objectionable. What I am suggesting in my amendment is to clearly define what class of officers of Government will be entitled to be authorised under this section. I draw the particular attention of the Hon'ble the Home Member to section 13 (*3*) as it has been passed by the Select Committee. The Select Committee in their wisdom have inserted the word "gazetted" before the word "officer" in line 2 of clause 13 (*3*). If the suggestion of the Select Committee for the insertion of the word "gazetted" in that clause be acceptable to the Hon'ble Member, I see no reason why this word should not be inserted in clause 3 (*1*) also. I think I need not dilate further on the matter. My idea is to limit the authority to a certain class of responsible officers of Government and to draw a line of demarcation. I have suggested "gazetted officer" because the Select Committee have already agreed to this class of officers in respect of clause 13 (*3*). Therefore, I hope the Hon'ble Member will take my amendment into his favourable consideration.

Maulvi HASSAN ALI: Sir, I formally move that in clause 3 (*1*), in line 1, after the words "any officer" the words "drawing a salary of rupees one hundred and upwards" be inserted.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 3 (*1*), in line 1, after the word "Government" the words "not below the rank of an officer in charge of a police-station" be inserted. Sir, the members of the House will be pleased to see that this section gives power to any officer authorised by the Local Government to arrest a person and to keep him in custody for a certain length of time. Now,

Sir, if this authority is given to any and every officer of Government, it may be liable to misuse. I, therefore, think that no officer holding a rank below that of an officer in charge of a police-station should have this authority bestowed upon him by Government. I do not think that under the Criminal Procedure Code any officer who is below the rank of an officer in charge of a police-station can keep a man in custody for about 15 days at a time, and when power is being bestowed upon officers of Government to arrest persons and detain them for a certain period, that power ought not certainly to be given to officers of lower ranks in the Police and other services. I am not going to fall into any trap which the Hon'ble Home Member may lay when he comes upon me with a spirited defence of the police force, but I shall say this that even the Home Member will agree with me that the lower ranks of the police are not yet filled with men who may be trusted to wield these unusual powers. I think Government will be well-advised to accept the amendment proposed by me.

Mr. R. N. REID: Sir, the mover of amendment No. 9, Rai Bahadur Dr. Haridhan Dutt, has based his arguments on the wording of sub-clause (*3*) of clause 13 in which, as he very rightly points out, the Select Committee have inserted the word "gazetted". The difference between that clause and the clause with which we are dealing, *viz.*, clause 3, is that sub-clause (*3*) of clause 13 refers to the delegation of power in a particular emergency in a specified area by the District Magistrate, whereas clause 3 deals with delegation by the Government. The two are different things, the point being that Government restrict the power of the District Magistrate in regard to his delegation, whereas Government might reasonably, in bringing forward clause 3, consider that it can be left to them to exercise reasonable discretion in the delegation that they will make and I submit that to confine this delegation of power to gazetted officers, as the other two amendments imply, will be restricting that power of delegation a great deal too far. I have not the papers beside me, but I am pretty sure that the delegation which has been made under the Special Powers Ordinance, on which this Bill to a great extent is based, extends to gazetted officers and to sub-inspectors of police and not any further, and this indicates that in the previous emergency which the ordinance was designed to meet, Government did not delegate their powers to an unreasonable extent and there is no reason why they should delegate unreasonably in the future. At the same time they feel justified and they think it a reasonable proposition that they should retain this power to delegate power under clause 3 to any officer of Government.

As regards Mr. Basu's amendment, the point I would make against that is simply that it is not always convenient or possible in an emergency to get hold of an officer in charge of a police-station. A

police-station may have two sub-inspectors—an officer-in-charge and a second officer. Mr. Basu's amendment would prevent an officer of the same rank as the officer-in-charge from taking action.

Mr. NARENDRA KUMAR BASU: He can still do that under sub-clause (*2*).

Mr. R. N. REID: I was going to say that of the two sub-inspectors the officer-in-charge might not be available. As a matter of fact, Government consider that it is necessary and reasonable to keep the power to delegate this power to any officer. With these words, I oppose the amendments.

The motion of Rai Bahadur Dr. Haridhan Dutt was put and lost.

The motion of Maulvi Hassan Ali was put and lost.

The motion of Mr. Narendra Kumar Basu was then put and lost.

The following motion was called but not moved:—

Maulvi ABDUL KARIM to move that in clause 3(*1*), in lines 10 and 11, the words "and in making such arrest may use any means that may be necessary to effect the arrest" be omitted.

5 p.m.

Mr. ANANDA MOHAN PODDAR to move that in clause 3(*1*), in lines 10 and 11, for the words "and in making such arrest may use any means that may be necessary to effect the arrest" the following be substituted, namely:—

"and if such person forcibly resists the endeavour to arrest him or attempts to evade the arrest then in making such arrest may use any means that may be necessary to effect the arrest."

Sir, this section gives the Government very wide and arbitrary powers to arrest a suspected person. By this, the officer of Government may use any means that may be necessary to effect the arrest. The words "any means" have not been defined or qualified. There is nothing in the clause by which the police officer may be restrained or by which it may be proved that he has acted beyond his powers. By this unlimited and wide power the safety of the public is endangered.

Sir, this section is no doubt meant for the arrest of desperate characters—and the police is authorised to use any means for their arrests. But the powers may be easily abused by the police. A person is going to be arrested on suspicion. Any officer may be authorised to arrest him and to use any means. The section does not imply that any means can be used, only when there is any resistance on the part of the suspected person.

In the Criminal Procedure Code, section 46, sub-section (*2*), it is enacted that if a person forcibly resists the endeavour to arrest him or attempts to evade the arrest, the police officer may use all means to effect the arrest. But in the present section there is no such condition. The officer is authorised to use any means whether there be any resistance or not. I do not see why such unrestricted power should be given to the police. For this reason I think the powers contemplated in the section should be given only in the case where there is any resistance on the part of the suspected person.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 3 (*1*), in line 10, after the word "any" the word "lawful" be inserted.

I think, Sir, Government as well as members of this House are all anxious to see that the law is not disturbed and anything lawful is not objected to. Therefore, I hope the insertion of the word "lawful" should not be objected to by anybody here, by Government or by any member of the House. Nobody can surely say that the police officers of Government should resort to action which will not be lawful, and, therefore, I hope my amendment will be accepted.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid that when Mr. Poddar moved his motion, he was labouring under a confusion of ideas. This Bill is not directed against desperate characters; in fact, it has nothing to do with desperate characters. Persons who are engaged in the subversive movement called the civil disobedience movement, have never yet been found to be desperate. Government has not, I believe, as yet found any very great difficulty in arresting such persons when they wanted to do so. On the contrary, the officers of the Government were much too far engaged in trying to avoid arresting such persons: these persons rather courted arrest. Therefore, this amendment does not commend itself to me. As regards the arrest of such persons, there is such a clause also in the Suppression of Terrorists Bill, and there may be some justification for its being there. But with regard to persons against whom this Bill is directed, any such clause, even with the amendment moved by Mr. Poddar is altogether out of place.

Nor do I think much of the amendments moved by Dr. Amulya Ratan Ghose. He seems to be a very great optimist and probably he does not remember the discussion which took place in this House over the same expression in connection with the Suppression of Terrorists Bill, when Government stoutly resisted and successfully resisted the introduction of the word "lawful". They are not anxious to do anything lawful at all. They are out to suppress the subversive movement and they do not care whether they do it by lawful or unlawful means. Then, Sir, what is law? Anything which is put in a Bill or into an Ordinance and passed at a moment's notice becomes law. So

the word "[illegible]" has not got any particular significance at the present day. Repressive laws are made with great rapidity nowadays, and so I do not think much will be gained by the amendment. The only thing that we can do is to oppose the clause altogether.

Mr. R. N. REID: There are only two amendments before the House. The first is the amendment of Mr. Ananda Mohan Poddar in which he wishes to emphasise or to point to the fact that the power which may be necessary to effect the arrests should only be used in cases of forcible resistance. I do not think that the amendment really adds anything to the clause or adds any safeguards to it. It stands to reason that even the much-abused police, when they go out to arrest a person, will not arrest that person forcibly or violently, if he offers no resistance. If, on the contrary, he wants to escape, then, of course, they have to use whatever means they may think necessary, and even in that case they must restrict themselves to the rules imposed upon them. That is very strongly impressed upon every police officer and I do not think that the police as a body abuse the powers when they make arrests.

I find that the addition of the word "lawful" is also opposed by Dr. Naresh Chandra Sen Gupta, and I think very rightly, although I do not agree with his reasons because I do not admit that Government have no wish to do anything but what is unlawful, for the implication of Dr. Sen Gupta's speech was that Government were simply determined to break the law on every possible occasion, and authorise its servants by legislation to do so. On the contrary, I take my stand on a different ground; for I think that the addition of the word "lawful" to the clause makes no difference whatsoever to it. Why should it be necessary to state in the Bill that the police officers should act within the law, which is quite well understood? These are the two amendments now before the House and I think under the circumstances I have stated, Government must oppose them.

Mr. NARENDRA KUMAR BASU: I beg to support the amendment of Mr. Poddar, and I shall do so in a very few brief words. I do not know, Sir, whether the police is a much maligned body or not. But if the police who should be entrusted with this power to effect arrests were as much above suspicion as the Hon'ble Mr. Prentice or Mr. Reid himself, I would have little faith in having these provisions here and little faith in the rules promulgated by the Government in directing the policemen to exercise their functions under this clause, to be of much use. But, unfortunately, no members of the front benches are likely ever to go down to the streets or districts to effect these arrests. Therefore, it is very often possible—I will not go further—that the men who are directed by officers to make these arrests may use means which is not necessary for the purpose. So I do not see any reason why the words

suggested by Mr. Poddar should not be accepted. If the intention of the Government is that force should be used only to counteract force in resisting arrests or attempting to evade arrests—if that is the intention of Government, then let them say so honestly and publicly. If it is their intention, under cover of this clause, to use force on any and every occasion then, of course, they will have to oppose the amendment: On the contrary, if their intention is what is expressed by them on the floor of this House, then I do not see any reason why they should not accept this amendment.

The motion of Mr. Ananda Mohan Poddar was put and lost.

The motion of Mr. Amulya Ratan Ghose was then put and lost.

Maulvi HASSAN ALI: I beg to move that in clause 3 (*f*), in line 4 for the word "fifteen" the word "seven" be substituted.

Sir, it will be admitted on all hands that in making these arrests suspicion will play a great part with the executants. Sir, arrests will in very many cases be made on mere suspicion and conjecture.

5-15 p.m.

This I say, Sir, not merely as a conjecture but from experience. I have seen in my own district during the last civil disobedience movement when the Special Powers Ordinances were in force, that persons were arrested on mere suspicion, and that some of them were released after three days, some after four days, and some after seven days; and I therefore, think, Sir, that in such cases, seven days is sufficient time to ascertain as to whether the suspicion upon which a person has been arrested is really based on facts or not. I, therefore, propose, Sir, that for the word "fifteen" the word "seven" be substituted.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 3 (*f*), in line 4, for the word "fifteen" the word "three" be substituted.

Sir, the reasons for my moving this amendment are many, and I shall try to explain them. An arrested person should not be detained for such an unduly long period as 15 days. If we allow such a long time for the detention of a person, it means that we encourage lethargy on the part of the police officers which will, no doubt, make them worthless. If the time of detention is cut short, they will be compelled to find out promptly whether there is any case against the arrested person, and, if so, to put up the case before the court.

Sir, I know cases where innocent persons—respectable innocent persons—were arrested and unnecessarily detained for a long time, and

afterwards set free. I should like to refer to the case of Mr. Nirmal Chandra Mitra, Municipal Commissioner of Howrah. He was arrested on suspicion, and after a long time he was set free.

The Hon'ble Mr. W. D. R. PRENTICE: How long?

Dr. AMULYA RATAN GHOSE: He was set free about a year ago. (*Sic.*).

Then, Sir, the Secretary of the Howrah Municipality was arrested on suspicion, he was an innocent man. He was arrested and detained for a long time under one of the ordinances that were in force at that time. The work of the municipality suffered. The man himself, as also his family, suffered from anxiety and troubles, till at last the police set him free. In such circumstances, it is a source of great annoyance to the public. If such things happen in future after this Bill is enacted into law, it will bring no security to the public: rather it will cause great annoyance.

In that view, Sir, I think the period of three days is quite sufficient for local officers and the police to find out if there is really any case against any person arrested; and I do not think there is any wisdom in recommending 15 days for the detention of such persons.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that in clause 3 (*4*), in line 4, after the words "fifteen days" the words "if such special order is not communicated in the meantime" be inserted.

Sir, my object in bringing forward this amendment is to meet any controversy which might arise later on. The intention of Government is to allow three days' time within which any special order may or may not be passed. Sir, from a first reading of the clause it is not clear whether this trouble may not arise later on. I cannot really understand what will be the consequence if the Government order is not communicated within fifteen days. So, my object is only to make the clause clear and more intelligible. With this end in view, I have brought forward this amendment, and I hope Government will see their way to accept it.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I have every sympathy with the speeches delivered by Maulvi Hasan Ali and Dr. Amulya Ratan Ghose. Well, this clause provides that a person shall not be detained in custody for a period exceeding 15 days. But supposing you make the period seven days—or even 15 days—you should remember that there is a clause which reads—

"Unless the Local Government by special order otherwise directs, etc."

So, if you reduce the period of detention to seven days or even three days, you will be merely forcing Government to spend a little more money in telegrams to get the order for the longer detention of a person. That is all the benefit that you will get by reducing the period in that way.

Then, Sir, this identical question has been debated upon more than once in connection with the passing of the Criminal Law (Amendment) Bill, and Government have steadily resisted the reduction of the period of detention, because they think that 15 days is the least possible time within which they can come to a decision.

Well, Sir, we have never been able to see eye to eye with Government. If a person is detained in custody, and, if, as a matter of fact, there is no case against him for detention, then Government should be as quick as possible to set the man free. But the argument is that Government have not got the time to consider such matters and come to a decision earlier than 15 days. I think, Sir, that that would be a very good ground for multiplying the number of officers who can examine such cases and come to a final conclusion within the shortest possible time. But that is no excuse whatsoever for detaining a person, who may be absolutely innocent, longer than is absolutely necessary. But, as I have said, Sir, the amendment, as it stands, will not serve any useful purpose so long as the other clause, *viz.*, "unless the Local Government otherwise directs", is retained.

Mr. R. N. REID: Sir, in rising to oppose the motion to substitute the word "seven" for the word "fifteen", and also a similar motion to substitute the word "three" for the word "fifteen", I should like to point out that the period of 15 days is the maximum. At the same time, Sir, I should like to emphasize that in spite of all that has been said, Government have no wish to detain innocent persons a moment longer than it is absolutely necessary. I might add that it is not the habit of Government officers to make a practice of seizing and detaining innocent persons.

Mr. NARENDRA KUMAR BASU: What about the man in Chittagong who was detained without trial for two years?

Mr. R. N. REID: I presume the hon'ble member is referring to Ambika Chakravarti. The hon'ble member assumes that he is innocent

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Mr. NARENDRA KUMAR BASU: Under the law, it is still to be presumed that he is innocent inasmuch as he has not been tried.

Mr. S. ANTI SHEKHARESWAR RAY: What about the other hundred and one cases?

Mr. R. N. REID: Sir, as I was saying, the period of fifteen days is the maximum time within which necessary inquiries should be made. I think one member is under a misapprehension in thinking that the custody which is referred to in this section is "police" custody, but that is not the case. The custody which Government, under sub-clause (*2*), by general or special order, may specify, was in the case of the ordinance jail custody, and not police custody.

Then there is the amendment of Rai Bahadur Dr. Haridhan Dutt. To tell you the truth, Sir, I still fail to understand the difficulty which he envisages. As far as I can make out, he intends to put in these words—"if such special order is not communicated in the meantime" after the words "fifteen days". A special order is an order directing custody for a period exceeding 15 days; and I must confess, Sir, that I cannot see how the proposed amendment adds anything to the clause, either by way of clarifying it or mitigating the severity of the provision. I am sorry, Sir, this difficulty of mine has not been elucidated by the member in his explanation.

With these words, Sir, I beg to oppose the amendments.

The motion of Maulvi Hassan Ali was put and lost.

The motion of Dr. Amulya Ratan Ghose was put and lost.

The motion of Rai Bahadur Dr. Haridhan Dutt was then, by leave of the Council, withdrawn.

Mr. NARENDRA KUMAR BASU: Sir, I beg to move that in clause 3 (*4*), in lines 5 and 6, for the words "two months" the words "one month" be substituted.

Sir, we have just seen that the House has given power to the Local Government to detain a man for 15 days. Well, Sir, my submission is that the total period of detention of a person pending inquiry should certainly not exceed one month. As the House is aware, even in the case of gross crimes, which come within the purview of the Code of Criminal Procedure, a policeman can arrest a person and detain him, pending investigation for 24 hours only. The arrested man can only be detained not only in police custody, but also in jail custody for a term not exceeding 15 days on the whole.

You have given, Sir, to the policeman power to detain a person for 15 days, and if the period of 15 days is considered sufficient time by the legislature in the case of investigation of serious crimes, then, for the purpose of finding out whether a certain person has acted, is acting, or is about to act in furtherance of the objects of an unlawful

association or in furtherance of the commission of an offence under section 24, or any offence prejudicial to the public security, surely one month should be quite enough. If within one month the Local Government cannot find out whether a person has acted, is acting, or is about to act, etc., in the manner described in clause 3 (*1*), I think it is perfectly sound to say that the man should be released forthwith. I, therefore, commend my motion to the acceptance of the House.

(At 5-30 p.m. the Council was adjourned for prayer and it reassembled at 5-40 p.m.)

Oath or affirmation.

The following member made an oath or affirmation of his allegiance to the Crown:—

Rai Jogesh Chandra Sen Bahadur.

(The discussion on the Bengal Public Security Bill, 1932, was then resumed.)

Mr. R. N. REID: I am afraid, Government must oppose this amendment to substitute the words "one month" for "two months". I think the arguments in dealing with this clause are intended to move a little away from reality. As the preamble to the Bill indicates, as also clause 1 of the Bill, all the provisions of this Bill are based on certain presuppositions, that is to say, when an emergency exists in which it is necessary for Government to take powers which they do not possess under the ordinary law. This Bill, when it becomes law, will not be put in force in any area where Government are not satisfied that such an emergency exists, and it will not be retained in any area for a moment longer than such a state of emergency justifies. These provisions are in the nature of emergency measures. The provision of clause 3 is to give power to bring about preventive detention for a period. It is conceivable, and I think Government are bound to take it into consideration, that it might be necessary to detain a person as a matter of prevention in order to prevent matters becoming serious for such a period as two months. I think it would be crippling the powers of Government too much to reduce the period and tie it down to one month as the amendment suggests. The wording of the sub-clause is mandatory and Government are not prepared to tie themselves down to one month which is proposed in this amendment.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid that Mr. Reid was labouring under some misapprehension. His plea on behalf of two months is that this is an emergency measure and where this

emergency exists, this clause provides for detention for a period of two months and that is not to be reduced. He thinks that this clause is a substantive clause of the Bill. But it is only an adjective clause, a provision for the detention of a man pending inquiry into the matter; the final orders of Government upon a person could be passed afterwards, but in the meantime this person has to be detained for 15 days and in no case for more than two months in order to enable the Government to decide in the meantime what steps should be taken about him. If that is so, two months is far too long a time. On the other hand, if the Hon'ble Member understands this to be a substantive clause, two months would necessarily be a very short period of time. That is not what is contemplated in the Bill. It is the maximum period of time for which a man can be detained. This is only detention pending investigation and there is no reason why investigation should not be finished within a month. The Government would then actually have a month and a half to pass orders under section 4 or otherwise. That being so, I do not think Mr. Reid has put forward any argument against the reduction of the period to one month.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following results:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Hajdhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Ezaufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Griffiths, Mr. R. N.
Guha, Babu Profulla Kumar.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hopper, Mr. G. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Mason, Mr. C. A.
Mitter, the Hon'ble Sir Provash Chunder.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.

Mazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Nagendra Narayan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Reid, Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahasm, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 21 and the Noes 57, the motion was lost.

The following motion was called but not moved:—

Maulvi HASSAN ALI to move that in clause 3(*4*), in lines 5 and 6, for the words "two months" the words "three weeks" be substituted.

Mr. PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was put and agreed to.

Clause 4.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

The following motion was called but not moved:—

Maulvi HASSAN ALI to move that in clause 4(*1*), in line 3, for the words "is acting or is about to act" the words "or is acting" be substituted.

6 p.m.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 4 (*1*), in line 7, for the words "in writing, give" the words "in writing, ask for an explanation from such person, which shall be submitted within two days from the date of service of notice for such explanation and if such explanation is considered unsatisfactory may give in writing" be substituted.

Mr. R. N. REID: Sir, I beg to oppose this amendment for which the mover has advanced no reasons whatever. In the first place, I do not think that in an emergency, when, as I said before, certain things are presupposed, it is reasonable, to make it obligatory, to call for an explanation. In the second place, the form of the amendment is open to objection, because it leaves this loophole that it does not indicate

what action is to be taken, supposing the person on whom notice is served gives no explanation. With these words, I oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 4 (*1*) (*a*), in line 1, after the word "area" the words "excepting his dwelling house" be inserted.

Sir, the object of Government and the object of this Bill will be served if this amendment is accepted. It has been proposed in this clause that the Local Government, if satisfied that there are reasonable grounds for believing that any person has acted, is acting, or is about to act in furtherance of the objects of any unlawful associations or in furtherance of the commission of an offence under section 24 or of any offence prejudicial to public security, may, by order in writing, give any one or more of the following directions, namely, that such person shall not enter, reside or remain in any area specified in the order. What I propose is that he "shall not enter, reside, or remain in any area except his dwelling house." If this is not done then it will be a gross injustice to that man. It must be remembered by all that this Bill does not contemplate dealing with terrorists or anarchical people but with people who carry on any agitation or movement according to non-violent methods and if those people are confined within their own dwelling houses, I think they will not be able to go about and make public life insecure. In this view I think that the movements of any person should not be so restricted as to make them leave their own dwelling houses, because that will be a great disadvantage not only to the person concerned but at the same time, I think, Government will be confronted with the problem where to give him shelter or to keep him. With this object in view I move the amendment standing in my name.

Mr. R. N. REID: Sir, I beg to oppose this motion. It seems to me that it is opposed to commonsense. If it is held to be necessary to order a person not to reside in a certain area, it stands to reason that the person should not reside in that area even in his dwelling house within that area, because if he is confined in his own house, there is nothing to prevent other people coming to him and there is nothing to prevent him from carrying on propaganda subversive of law and order or from acting in furtherance of the commission of offences which come under clause 24. The mover of this amendment said that it would be a great disadvantage to such a person if he is not allowed to remain in his own dwelling house. Supposing he is put to a great disadvantage, the whole point is that such a person is engaged in a propaganda which is subversive of law and order and which is to the

disadvantage not only of Government but of the community as a whole, and if by his action he puts the Government and the whole community at a disadvantage, there is no reason why Government should not put him at a disadvantage. There is no reason to show any sympathy to such a person, and I oppose the motion.

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. We have not yet made preaching against payment of rent, etc., an offence as contemplated under section 24, but now we are making it an offence under clause 4. If clause 24 is not passed, what will be the position?

Mr. PRESIDENT: Your idea is that if clause 24 is subsequently altered by the House, a difficulty will arise.

Mr. SHANTI SHEKHARESWAR RAY: Yes.

Mr. PRESIDENT: Could you tell me what sort of difficulty you are imagining?

Mr. NARENDRA KUMAR BASU: The difficulty would be that supposing clause 24 is not accepted by the House and if clause 4 is now accepted, will it be possible to change clause 4 afterwards?

Mr. PRESIDENT: Why cannot that be done by a consequential amendment? It is quite easy.

The motion of Dr. Amulya Ratan Ghose was put and lost.

The following motions were called but not moved:—

Maulvi ABDUL KARIM to move that in clause 4(*1*) (*d*), in lines 3 and 4, the words "or under his control" be omitted.

Maulvi HASSAN ALI to move that in clause 4(*2*), in line 3, for the words "one month" the words "fifteen days" be substituted.

Mr. NARENDRA KUMAR BASU: I beg to move that to clause 4 (*2*) the following be added, namely:—

"The Local Government may direct that the order may remain in force for a total period of three months from the making thereof."

Sir, in this clause in the Bill it is stated that an order made under sub-section (*1*) shall not ordinarily remain in force for more than one month. Power is given to the Local Government to extend the period,

but no limitation is put on that power. It may possibly be that the Local Government may, under this unrestricted power, want to extend the duration of the order indefinitely. My submission is that this is certainly not the intention of the House and I do not think that it is the intention of Government either. The intention of Government will appear from the substantive clause of the Bill that the order will ordinarily last for a month. It is only by a special order that the Local Government may extend it, and I think three months' time is quite enough for the purpose. There is another point. Under clause 13 (*1*) the Local Government may delegate their powers under sub-clause (*1*) of clause 4 to the District Magistrate, that is to say, an order under sub-clause (*1*) of clause 4 will, in most cases, be made by the District Magistrate or under sub-clause (*3*) of that clause by any other officer. Therefore, an order made under sub-clause (*1*) is not considered by the Local Government to be so serious an encroachment upon public liberty as to warrant the Local Government to step in in every case. They minimise the gravity of the offence. The point is not the offence itself but the gravity of the circumstances under which power is taken under clause 13 to delegate powers under clause 4 (*1*) in the first instance to the District Magistrate and then by the District Magistrate to any gazetted officer of the police, and now for the last three or four weeks we have been seeing that sub-inspectors of police are also gazetted officers. I do not see any reason why this order by the Local Government should extend beyond three months.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I support this amendment. It will be noticed, and I hope Government will realise, that an order passed under clause 4 (*1*) may cause far greater hardship than a term of imprisonment to the person concerned. A man who has committed far greater offences than those contemplated in this clause may be committed to prison for a period of, say, three months, six months, one year, two years, three years or ten years, but then Government will have to make itself responsible for his maintenance. But an order under this clause may deprive a man of his means of livelihood altogether, without the Government maintaining him. Therefore there ought to be a strict limitation of an order of this kind. The principle is already recognised in sub-clause (*2*), namely, that ordinarily the order is not to remain in force for more than one month. But there is an exception made and the power under that exception is unlimited. I know the answer would be that no one knows to what extent the presence of such a person in the area from which he is removed may become a source of additional strength to the subversive movement. That is perfectly true, but at the same time you have got to put a reasonable limitation on the discretion of the Local Government, especially having regard to their actions in the past.

6-15 p.m.

I do not think it is fair that such an order should remain in force for a long time, as in some cases it means taking them away from the vicinity of their homes and place of business. It would have been very different if it had been a case of detention without trial in which case the Government would have made themselves responsible for their upkeep and would not only pay allowances to the man thus detained, but would also provide for his family. But if this clause is given effect to, it would mean not only depriving the man thus detained from earning his own livelihood, but Government will undertake no liability whatsoever for the maintenance of his family. Under the circumstances, Sir, I think there is no justification for keeping the period unlimited, and three months is the utmost limit which should be imposed.

Mr. R. N. REID: Sir, I beg to oppose this motion. The last speaker has anticipated and expressed better than I can the answer to his own criticism, and that is that it is conceivable, and past experience shows that it is a reasonable supposition that emergencies such as are contemplated, such as would necessitate the issue of the kind of order which clause 4 contemplates, may last longer than three months. Is the Government, with its responsibility for the public safety and security, justified in fettering its discretion to this extent, and must it always be assumed that Government is going to abuse this power and, as was suggested, pass such an order as is contemplated in clause 4 to remain in force for the duration of the Act. The order will never be in force for more than the period of the duration of the emergency which necessitates the provisions of the Act being extended to a particular area.

Mr. NARENDRA KUMAR BASU: But if Government forgets to withdraw the orders in respect of these men?

Mr. R. N. REID: If Government forgets, they have friends—and they have friends in this House—who invariably show considerable solicitude for them. I may be wrong, but I think Mr. Narendra Kumar Basu suggested that the powers which the Local Government is able to delegate under clause 13 to the District Magistrate could, under clause 4, be delegated by the District Magistrate to somebody else. I am not a jurist, but I think there is a well-known principle—*viz.*, *Delegatus non potest delegare*—which means that delegated authority cannot further delegate the powers which have been delegated to him.

Mr. NARENDRA KUMAR BASU: I hope you will remember that principle and act up to it when clause 13 is taken up. I think that will be satisfactory.

Mr. R. N. REID: I think that disposes of that particular objection. With these words I oppose the motion.

The motion of Mr. Narendra Kumar Basu was put and lost.

Mr. PRESIDENT: Before we dispose of clause 4, I should like to amplify the ruling that I gave in respect thereof on a point of order raised by Mr. Ray. I said that if clause 24 is thrown out clause 4 could be prevented from being nonsensical by a consequential amendment. I do not know whether Mr. Ray understood my point. I have since gone through the clause very carefully and I find that in the event of clause 24 being washed out, only 2 lines will have to be taken out from clause 4 (*1*), namely, "or any furtherance of the commission of an offence under section 24". If these two lines are deleted, the rest of the section will not be destitute of sense.

Mr. SHANTI SHEKHARESWAR RAY: Sir, may I oppose this clause? I am going to oppose the whole clause.

Mr. PRESIDENT: But in doing so, will you go beyond the amendments that have already been discussed? My point is whether you are going to say anything beyond the amendments that have already been thrown out.

Mr. SHANTI SHEKHARESWAR RAY: Yes, Sir, my point is this: that by asking the House to pass this section, Government is taking powers in connection with the civil disobedience movement, similar to the powers that have been given to deal with the terrorists under the Bengal Criminal Law Amendment Act. Virtually it gives power to Government to intern persons either in their own houses or in different villages, scattered all over the country, as they have done in the case of the people who have been arrested under the Bengal Criminal Law Amendment Act; but while in the case of internees, under the Bengal Criminal Law Amendment Act, Government provided for the maintenance of the internees as well as for the maintenance of their families —of course sometimes they have given very niggardly allowances, but still they give something—here they want to encroach upon the liberties of the people without trial and are not prepared even to make that concession. Sir, it will be a great injustice, and I hope the House will not like to give its sanction to such an injustice. We are always told that the Government take action on very reliable information. We know what sort of information Government consider as reliable. Only the other day we saw that nearly 150 houses were searched at Chittagong and those searches proved fruitless; but the Hon'ble Member came forward and said that those searches were made on reliable information. Sir, it is not a question of house-searches at Chittagong only, but during the last two years Government have been searching houses all over the province on very, I may say, unreliable information. All

these house-searches proved fruitless. I asked a question on the subject and the Government avoided making a reply to it on the ground that they had not the time to collect information. I submit they did not give the information, because that information would have gone against them. Sir, in view of the fact that the Government generally act on the information of the most unreliable informers we should take all possible precaution that no injustice is done to anybody, and as in this case there is no provision for the maintenance of those persons who are interned or externed, I think the House will throw out this provision from the Bill.

Mr. PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. N. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hesszur Rahman.
Chowdhury, Haji Badi Ahmed.
Coben, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. D.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sueil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Hogg, Mr. C. P.
Hooper, Mr. C. C.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Mason, Mr. C. A.
Mitter, the Hon'ble Sir Provash Chunder.
Nag, Reverend B. A.
Nandy, Maharája Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Petre, Mr. B. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Rahman, Mr. A. F. M. Abdur.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Mr. Baileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Ali, Maulvi Hasan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hoque, Kazi Emdadul.
Mookerjee, Mr. Syamaprosad.
Poddar, Seth Hunuman Prosad.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Sen Gupta, Dr. Naresh Chandra.

The Ayes being 50 and the Noes 17 the motion was carried.

6-30 p.m.

Clause 5.

Mr. PRESIDENT: The question before the House is that clause 5 do stand part of the Bill.

Rai Bahadur Dr. HARIDHAN DUTT: Sir, I beg to move that to clause 5, the words "not used for dwelling or customary religious purposes" be added.

Sir, on a reference to the Bill, I find that clause 5 is intended to give power to prohibit or limit access to a certain place. I also find that it prohibits access not only to such places but even to the vicinity of those places. Sir, if this clause is passed without the addition of the words I have proposed, the result would be that a good many dwelling-houses and other buildings which are used for religious purposes might come within the category of "buildings or places", access to which is proposed to be prohibited. This may eventually wound the feeling of the people who dwell in those houses as also of others who go there for religious purposes. Supposing there is a Shiva temple within the limit of a prohibited area, then what would be the result, Sir; will the worshippers be prohibited from going to the place for the purpose of worshipping?

It is for this reason, Sir, that I want to insert the words "not used for dwelling or customary religious purposes", in this clause.

Mr. R. N. REID: Sir, I am sorry to oppose this motion. The condition precedent, as I should like to emphasize once more, to any such order is the state of emergency that exists at any particular time, and, as you know, Sir, in times of emergency, unusual powers have to be taken, and the public must, I am afraid, have to put up with some inconvenience. We must face that position, and there is no getting away from it.

I should like to add, Sir, that this clause was very carefully considered and discussed in the Select Committee—much on the lines that the mover of this amendment has taken—and, after a careful discussion, it was decided that this clause was a reasonable one. Further, the Select Committee was well aware that possible inconvenience might be caused to the persons in the neighbourhood. The position contemplated was that there might be some building or place in the possession of Government on which some possible attempt might be made and such attempt might be made from some dwelling-house or some place for religious purposes close by. It might be a matter of urgent and absolute necessity to make that place inaccessible to persons who might use it as a base for improper purposes. We have to look at the situation from a purely practical point of view, and, as I

have said before, you must take emergency measures in an emergency. The provisions, like so many other provisions, are admittedly drastic, but they are intended to be applied only when there is a definite emergency.

Mr. NARENDRA KUMAR BASU: Sir, I am afraid, I must say that the reasons put forward by Mr. Reid in opposing the motion do not commend themselves at least to me. It seems to me that under the guise of an emergency, so far as civil disobedience is concerned, something far more serious is contemplated by Government, unless this amendment of Dr. Dutt is accepted. If by an order under this section, a District Magistrate prohibits access to any building or place in the vicinity of which there is a mosque, I am afraid then there will not be only a "civil disobedience"—there will be "Criminal" disorder. Government may not take notice of any Hindu temple in the vicinity of a prohibited area, because they know that, probably, they can ride rough-shod over the feelings of the religious-minded Hindus. But so far as the Muhammadans are concerned, if there is a mosque in the vicinity, and access to that mosque is closed by an order under this section, then, instead of putting a stop to civil disobedience, there will be total disobedience and civil commotion. It is for the purpose of safety of Government themselves that the amendment proposed by Rai Bahadur Dr. Haridhan Dutt should be accepted.

The motion of Rai Bahadur Dr. Haridhan Dutt was put and lost.

Mr. PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was put and agreed to.

Clause 6.

Mr. PRESIDENT: The question is that clause 6 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that clause 6 be omitted.

Sir, this piece of legislation is a very unwise one. In the case of the Suppression of Terrorist Outrages Act, we have got a section like this. In that case, Sir, the matter is much more serious, and there was some justification on the part of Government for inserting that provision. But the civil disobedience movement is not a very serious thing. We have dealt with individual cases in the three previous clauses of this Bill, *viz.*, clauses 3, 4 and 5. Sir, if any suspicion is entertained as regards any particular person, suitable action can be taken against him. But the provision in this clause will, when

given effect to, affect a number of persons, and, in fact, this Public Security Bill will turn out to be a Public Harassment Act. I have already observed, Sir, that in Bengal the no-tax campaign or the civil disobedience movement is not so serious as to paralyse Government. In my opinion, it is not so serious that it cannot be dealt with under the ordinary law. If this clause is carried, in the name of "public security", too much oppression will be committed.

My friend, Rai Dr. Haridhan Dutt Bahadur, will move an amendment which is intended to prove that marriage, funeral, and customary religious processions are likely to be interfered with. In fact, Sir, what "public security" is has not been clearly defined in the Bill. Any thing and every thing can be classed as against the interest of public security; but, here, in the case of traffic over roads, bridges and ferries, why a large number of persons should be interfered with, or why any thing should be done or any steps taken, or any police officer should be deputed to take any action under the guise of protecting "public security"; this I cannot understand. I think that no necessity has arisen for any such provision. If we accept this clause, we shall be creating an engine of oppression for the public. Why should Government be anxious to have this power? So far as the terrorist movement is concerned, it is a quite different thing, but in this case it is not so; the menace can be dealt with under the ordinary law. If the clause is accepted, I do not think it will be for the benefit of the public. For the security of the public, I submit, Sir, this clause should not be accepted and it should be deleted.

6-45 p.m.

Mr. R. N. REID: The last speaker, if I heard him aright, seemed to indicate that civil disobedience is not a very serious movement. I think there is hardly any one in this House who will agree with him. It is a very serious movement indeed, and every one, I think, will agree that it was brought to an end only by special emergency measures like this which is now before the House. It would not pass the ingenuity of those who are out (there are plenty of them) to subvert ordered government to invent some new such movement in future. This Bill is not aimed at civil disobedience only. We have had in the past the non-co-operation movement, the civil disobedience movement and what not. It is unfortunately quite easily conceivable that some fresh, some more dangerous, more subversive movement may be set on foot in the future. So this Bill is designed to give Government power to deal with such an emergency and this particular clause (clause 6) reproduces a clause which finds its place in the Special Powers Ordinance which has been in force since June and in its predecessor the Emergency Powers Ordinance which was promulgated last January. I do not know of any case in which the use of that

section may be claimed to have resulted in extreme inconvenience or any harassment, as Babu Kishori Mohan Chaudhuri suggests, of the public in any serious fashion. I think he anticipates a great deal too much and we must take it that this clause would not be put in force unless there is really sound reason for it, and we must take it also that reasonable precaution will be taken to prevent that clause being used for the harassment of the public of which he is so apprehensive. I beg to oppose the motion.

The motion of Babu Kishori Mohan Chaudhuri was put, and lost.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that to clause 6, the following be added, namely:—

"Provided that this section shall not apply to marriage, funeral and customary religious processions."

I find on reference to the draft Bill that section 6 is intended to give the Government power to prohibit or regulate the traffic. I presume for the purposes which are mentioned in my amendment if any road is used Government do not seriously suggest that they should be prohibited. I understand from Mr. Reid that Government do not want to use this power to prohibit processions, but they want to regulate them. That is well and good. If the prohibition is given up in cases of things which are absolutely necessary and cannot be avoided and if it is only intended to regulate them, then why not ease public opinion by clearly stating that in your Bill? I suggest nothing except that there should be this proviso that this section shall not apply to such things as marriage, funeral and customary religious processions. If Government really intend not to interfere with these things, all that I am asking is to put that down in the section. It cannot be objectionable, because the Government do not intend to do that. The difference between me and the Government is this that I wish to give an assurance to the public in a definite form. If there is no difference between this side and that side of the House, then why an honest attempt on our part should not meet with approval to which we are entitled? I cannot really make out why, even if suggestions are made in a reasonable way, they should be looked upon with suspicion and discourtesy.

Mr. R. N. REID: I entirely sympathise with the motives which actuated the Rai Bahadur in putting forward this amendment, but I really must disclaim the suggestion of discourtesy which he put forward. There is no such intention. I think he is labouring under a misapprehension as regards this clause. If his amendment were accepted, it would mean that all marriage, or funeral or customary religious processions would be entirely outside any possible regulation. If he

reads the clause carefully, he will see that the District Magistrate may prohibit or regulate in such manner as he thinks necessary traffic over any road, pathway, waterway or ferry, but that does not mean that he is going to prohibit any marriage, funeral or customary procession from being taken out on any road. He might prohibit it from going over a particular road or a particular ferry for reasons of emergency. In these circumstances, I certainly think that if I were a District Magistrate, I would say that it should go over some other road.

Mr. NARENDRA KUMAR BASU: Even if the bride's house be on that road?

Mr. R. N. REID: That requires some consideration, but as regards processions in general it is a common place of life in India that processions are always regulated except perhaps in small places. All processions, for instance, the great Muhammadan processions, are regulated by the police after consultation with different parties which take out different processions.

Mr. NARENDRA KUMAR BASU: Nobody objects to that.

Mr. R. N. REID: I do think that there is no need to think that this clause is designed to seriously interfere with ordinary life. It may be necessary, but there is ample discretion in the clause to allow for proper consideration being given to the necessities of each particular case. I hope that Dr. Dutt will realise that this side is not attempting to do away with it in any way.

Mr. NARENDRA KUMAR BASU: I am afraid Mr. Reid has not understood the real purpose of this amendment. So far as regulating these processions is concerned, there is a power under the Police Act and I hope the Home Member and Mr. Reid are fully aware of the provisions of the Police Act under which processions are regulated. Then what is the necessity of having special powers to regulate marriage or funeral processions? Mr. Reid suggests that probably the District Magistrate would exercise his discretion in such a way as not to interfere with processions of that nature. Under this clause the District Magistrate may prohibit the taking out of processions over certain roads or ferries: but suppose a man dies in a house on that road. In that case his relatives will have to wait for the permission of the District Magistrate; the order being there, this will put an additional burden on the relatives of the deceased if they were to get any order from the District Magistrate when probably the District Magistrate may be out on tour. There may be cases of that description. Therefore, there is absolutely no reason why marriage or funeral processions

should be prohibited in any area. As regards the power of regulating these processions, as I have already said, there is ample power under the Police Act. We do not want any special power to regulate processions under this Bill. I, therefore, hope that the sense of reality will still dawn upon the Government Bench and they will accept this amendment.

The motion of Rai Bahadur Dr. Haridhan Dutt was put and lost.

Mr. PRESIDENT: The question is that clause 6 stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m. on Wednesday, the 14th December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Wednesday, the 14th December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 100 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Principal, Eden Girls' High School, Dacca.

*102. **Mr. S. M. BOSE:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether it is a fact that a non-Bengali has been appointed Principal of the Eden Girls' Intermediate College, Dacca, or the Eden Girls' High School?

(*b*) Is it a fact that no other suitable Bengali women were available for the appointment?

(*c*) What were the qualifications of the lady appointed?

(*d*) In what grade of pay has the appointment been made?

(*e*) Is the lady appointed a native of Madras?

(*f*) What is the reason for the appointment of a non-Bengali?

(*g*) Will the Hon'ble Minister be pleased to state whether a native of Bengal is given preference in the appointments to the Education Department made by the local Government?

(*h*) Are the Government considering the desirability of adopting the principle "Bengal for the Bengalis" in making such appointments?

MINISTER in-charge of EDUCATION DEPARTMENT (the Hon'ble Mr. Khwaja Nazimuddin): (*a*) Yes.

(*b*) The lady appointed was considered to be the most suitable person for the post.

(*c*) M.A. in Education (London); Teachers' Diploma from London; B.A. (Cal.) with Honours in English; B.T. (Cal.), standing 1st in the first class. She is also qualified in Music and Elocution, having obtained the A.T.C.L. (Piano) and the L.T.C.L. (Elocution).

(*d*) On a fixed pay of Rs. 425 per mensem *plus* a house allowance of Rs. 100 per mensem.

(*e*) She was domiciled in Bangalore.

(*f*) Because Miss Alphonso was considered the best candidate among all the applicants.

(*g*) Other things being equal, a native of Bengal would be given the preference.

(*h*) This principle is generally followed, if possible.

Mr. S. M. BOSE: With reference to answer to item (*f*), does the Government always appoint the best men or women in the Education Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the house allowance of Rs. 100 per mensem is sanctioned for the post itself or specially for the present incumbent?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: For the post.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the previous holder of the post received this allowance?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I must ask for notice, Sir.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to state whether the Department is considering the desirability of retrenching these handsome allowances given to their officers?

Mr. PRESIDENT: That question does not arise.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state if it is not the policy of the Government of Bengal to appoint natives of Bengal with the minimum of qualifications in the Education Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I would refer the member to answer (*g*).

Mr. SATYA KINKAR SAHANA: Will the Hon'ble Minister be pleased to state if Miss Alphonso is well versed in the Bengali vernacular?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The medium of instruction as far as higher classes are concerned is English.

MUNINDRA DEB RAI MAHASAI: Will the Hon'ble Minister be pleased to state whether it is the intention of Government to carry out the principle "Bengal for the Bengalis"?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I would refer the member to answer (*h*).

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Minister be pleased to state whether the answer to (*g*) is the considered policy of the Government of Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Yes.

Scholarships and stipends of Moslem students of Presidency College.

***103. Maulvi SYED MAJID BAKSH:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a statement showing for the last three years—

(*i*) how many scholarships and stipends of Muhammadan students of the Presidency College, Calcutta, were refunded to the Treasury for want of disbursement and on how many occasions;

(*ii*) whether any step was taken to inform such students who were absent from the College during the time of disbursement of such scholarships and stipends; and

(*iii*) whether the scholarships and stipends were regularly paid within the second week of the month following to the students of the Presidency College, Calcutta, after their award during the last three years?

(*b*) Is it a fact that Rs. 5 is the minimum fee of fine for each student who cannot pay his tuition fees of the College within the month?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) 30 on 25 occasions.

(*ii*), (*iii*) and (*b*) No.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to explain what is the meaning of 30 on 25 occasions?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Thirty scholarships and stipends refunded on 25 occasions.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Minister be pleased to consider what are the reasons why so many scholarships were refunded on so many occasions in view of the statement that scholarships and stipends are not regularly paid?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: The students do not come to receive payment.

Khan Bahadur Maulvi AZIZUL HAQUE: May I inquire how is it possible for human nature to act if scholarships and stipends are not regularly paid and you want the students to be present?

Mr. PRESIDENT: I do not understand your question.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the statement that scholarships and stipends are not regularly paid, how is it possible for the students to be present to receive payment?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: A notice is always put up on the notice board of the college stating the dates and hours on which different scholarships and stipends will be disbursed by the cashier.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the fact that 30 scholarships were refunded, will the Hon'ble Minister consider the desirability of improving the method by which the students will be informed?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: This is a matter which we are considering.

Khan Bahadur Maulvi AZIZUL HAQUE: Does it stand to the credit of a college with a Principal drawing a handsome salary and a dozen clerks and 90 servants that the students should not be informed in proper time and that work should be conducted in this manner?

Mr. PRESIDENT: I am afraid that question does not arise.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state why it cannot be arranged that scholarships and stipends are regularly paid?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I have already answered that question.

Retrenchment Committee recommendations.

*104. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Member in charge of the Finance Department be pleased to state—

(*i*) what action was taken by Government on the recommendations of the Mukerjee Committee appointed in 1922;

(*ii*) the extent of savings effected in pursuance thereof;

(*iii*) the savings anticipated if the recommendations of the Swan Committee are given effect to *in toto*?

MEMBER in charge of FINANCE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) A statement showing action taken in regard to the various recommendations of the Retrenchment Committee was circulated in 1924 to all members of the Legislative Council. A copy of the statement is available in the Legislative Council library.

(*ii*) The member is referred to the memorandum, dated the 21st September, 1931, circulated to all members, a copy of which is placed on the library table.

(*iii*) The member is referred to the report.

Bengal Moslem Education Advisory Committee Report.

*105. **Rai Bahadur KESHAB CHANDRA BANERJI:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) when, if at all, the Report of the Bengal Moslem Education Advisory Committee is likely to be published;

(*ii*) whether it is a fact that the proceedings of the Committee were conducted *in camera*;

(*iii*) whether the Press was excluded from the sittings of the Committee;

(*iv*) whether the Report will be placed before the Legislative Council; and

(*v*) the expenses incurred by Government on account of this Committee?

(*b*) If the answers to (*a*) (*ii*) and (*iii*) are in the negative, will the Hon'ble Minister be pleased to state why no report of the Committee has been published for general information?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) The Report has not yet been received and it is not possible therefore to say when it will be published.

(*ii*) and (*iii*) No.

(*iv*) This cannot be decided until the Report is received.

(*v*) Rupees 5,178 has been spent so far out of Rs. 7,347 which was sanctioned.

(*b*) Because it has not been received.

Maulvi SYED MAJID BAKSH: Will the Hon'ble Minister be pleased to state when this committee was appointed?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: I want notice, Sir.

Calcutta Port Trust.

***106. Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state—

(*i*) what is the total number of officers in the Calcutta Port Trust of all grades, other than menials;

(*ii*) how many of them are Europeans, how many Anglo-Indians and how many Indians;

(*iii*) of the Indians how many of them are Hindus, how many Muhammadans and to what provinces do they belong; and

(*iv*) what percentage of the total amount spent on the salaries of these officers goes to Europeans, Anglo-Indians and Indians respectively?

(*b*) Is it a fact that almost 50 per cent. of the Indians who were recruited in the past directly for being trained as officers have been dismissed or discharged?

(*c*) Is it not a fact that most of these young Indians were thrown out after undergoing training for considerably long periods only to find themselves unfit for employment under Government or quasi-Government bodies because of the age-limit?

(*d*) What were the reasons which led to their discharge or discharge in each case?

(*e*) Is the Hon'ble Member aware that every one of these young Indian officers who were dismissed from the Traffic Department of the Calcutta Port Trust was at least a first class Honours graduate?

(*f*) Of the Indian officers in the Calcutta Port Trust, excluding those promoted from the subordinate and ministerial ranks, how many have, during the last fifteen years, been recruited direct and trained for the purpose?

(*g*) Of these direct recruits—

(*i*) how many have been confirmed in the jobs after serving the stipulated periods of probation;

(*ii*) how many of them are still on probation;

(*iii*) how many voluntarily left the services; and

(*iv*) how many were dismissed?

MEMBER in charge of MARINE DEPARTMENT (the Hon'ble Mr. J. A. Woodhead): (*a*) (*i*) to (*iv*) The Port Commissioners have reported that it is not possible to compile the information required at short notice, and the local Government do not consider that the labour and expense entailed in the inquiry would be justified.

(*b*) The numbers are:—

30 were appointed, 3 resigned, and 11 were discharged.

(*c*) The periods of service of the 11 referred to in (*b*) were as follows:—

2 years 9 months.

1 year 6 months.

4 years 1 month.

2 years 7 months.

The other seven men whose period of service is given immediately below joined the King George's Dock staff either as student engineers or probationary assistant engineers. They all eventually rose to be assistant engineers.

8 years 4 months.

3 years 7 months.

7 years 1 month.

4 years 10 months.

2 years 8 months.

8 years 5 months.

8 years 11 months.

(*d*) Three were discharged because they proved unsuitable for confirmation in the service; three were discharged at the completion of King George's Dock; three were given temporary employment on other capital works after the completion of the King George's Dock and were discharged on the completion of those capital works; and two were absorbed into maintenance staff after completion of King George's Dock but were subsequently discharged under retrenchment schemes.

(*e*) Yes.

(*f*) and (*g*) Thirty, of which number 11 were discharged and three resigned. Sixteen are still in the Commissioners' service, and of these 16, nine have been confirmed and seven are still on probation.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state why the Port Commissioners complained of shortness of time when notice of this question was given in proper time?

The Hon'ble Mr. J. A. WOODHEAD: I think the Port Commissioners have not had enough time to compile this information which involves a considerable amount of time and labour. The Hon'ble Member wants information about all officials excluding menials.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether or not the Port Commissioners have a list of all the staffs in their employ?

The Hon'ble Mr. J. A. WOODHEAD: I am afraid I must ask for notice of the question.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether or not it is the duty of every Government or semi-Government institution to keep a list of all the staff in their employ, whether superior or subordinate?

The Hon'ble Mr. J. A. WOODHEAD: I am not certain whether the Port Commissioners keep a classified list of their employees.

Mr. P. BANERJI: If such a list exists, does not the Hon'ble Member agree that these details have not been supplied because the Port Commissioners in that case will be caught in their attitude, as I have indicated in the question?

Mr. PRESIDENT: I do not allow that question.

Calcutta Port Trust.

*107. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state whether it is a fact that an Indian assistant accountant, the only Indian official who had been on the superior establishment of the Calcutta Port Trust, recently left the services as his pay was reduced almost by half for economy?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Member be pleased to state whether there is any parallel instance where the salary of a European or an Anglo-Indian official has been reduced by a proportionately equal extent?

(*c*) If there is no parallel instance, what are the reasons for the differential treatment?

(*d*) Is it not a fact that for the purpose of retrenchment the Calcutta Port Trust has introduced reduced scales of salaries for the new entrants and for those getting confirmed in services in the junior and upper subordinate ranks?

(*e*) Have the scales of salaries for the posts on the superior establishment, *i.e.*, posts with starting salaries of Rs. 600 and above, been revised and proportionately reduced?

(*f*) If the answer to (*e*) is in the negative, what are the reasons?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) No.

(*b*) and (*c*) Do not arise.

(*d*) The salary scales of new entrants are still under the consideration of the Commissioners.

(*e*) and (*f*) Do not arise.

Calcutta Port Trust.

*98. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state what is the present total number of officiating arrangements in the posts in the Calcutta Port Trust carrying starting salaries of Rs. 600 or above?

(*b*) Is it not a fact that in the Calcutta Port Trust, when a person officiates in the higher rank because of the permanent incumbent being on leave, the former proceeds on leave before the expiry of his officiating period and he is allowed to enjoy all the benefits of drawing a higher salary in his officiating capacity, though the permanent hand may resume his duties from the date or a few days immediately after the officiating incumbent goes on leave?

(*c*) Is it not a fact that persons officiating in the higher ranks try to avail themselves of long leave before the expiry of their officiating periods?

(*d*) If so, what are the reasons?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) Twenty-two.

(*b*) The Commissioners have adopted the Fundamental Rules, and all leave is granted according to the provisions of those rules.

(*c*) No.

(*d*) Does not arise.

King George's Dock.

*99. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Marine Department be pleased to state—

(*i*) what was the total number of engineers on the King George's Dock construction staff immediately before that work was suspended;

(*ii*) out of these engineers what was the strength of Europeans, Anglo-Indians and Indians respectively;

(*iii*) after the suspension of the King George's Dock construction, how many engineers were retained in the services and how many were discharged;

(*iv*) out of the discharged, what was the number of Europeans, Anglo-Indians and Indians respectively;

(*v*) how many of these discharged engineers were subsequently recalled for appointment; and

(*vi*) of these how many were Europeans, Anglo-Indians and Indians respectively?

(*b*) Is it a fact that it is the policy of the Calcutta Port Trust generally to purchase its stores in foreign markets in preference to the products of indigenous industries?

(*c*) Is it a fact that the Indian element in the body of the Commissioners for the Port of Calcutta is in a great minority?

(*d*) Do the local Government propose to urge upon the Government of India the desirability of the Indianisation of the Port Trust services?

(*e*) Are the Government also considering the desirability of urging upon the Government of India the desirability of revising Bengal Act No. III of 1890, *i.e.*, the Calcutta Port Act, to ensure stronger representation of the Indians on the body of the Commissioners?

The Hon'ble Mr. J. A. WOODHEAD: (*a*) (*i*) Twenty, including probationers and student engineers.

(*ii*) Europeans 8, Anglo-Indian 1, Indians 11.

(*iii*) Two European executive engineers were retained after the completion of the work to fill vacancies in the permanent establishment caused by the retirement of one senior engineer on account of age and the death of another senior engineer.

The Anglo-Indian engineer was discharged.

Of the 11 Indian engineers 2 left the service of their own accord; 3 were discharged on the completion of King George's Dock; 2 were temporarily appointed against permanent maintenance posts which were later abolished under retrenchment schemes; 3 were given temporary appointments on other construction work upon the completion of which their services were terminated; and one engineer is still in the service. The totals were: retained 3, discharged 15, resigned 2.

(*iv*) The engineers discharged were: Europeans 6, Anglo-Indian 1, Indians 8.

(*v*) None.

(*vi*) Does not arise.

(*b*) No.

(*c*) There are 19 Commissioners of whom 4 at present are Indians.

(*d*) No. The Government of India, in 1922, accepted a resolution in the Council of State recommending that steps be taken to increase the number of Indians in the higher grades of the Port Trusts. They have also recently accepted a resolution moved in the Council of State recommending the adoption of effective measures to secure a substantial improvement in the matter of Indianising the services of the Port Trust to an appreciable extent.

(*e*) No, as this question was fully considered in 1925-26 when the Calcutta Port (Amendment No. II) Act, 1926 (Ben. Act VI of 1926), was passed by this Council.

Process-servers of Mymensingh.

*110. **Kazi EMDADUL HOQUE:** (*a*) Will the Hon'ble Member in charge of the Judicial Department be pleased to state whether any process-servers above sixty years of age or above thirty years of service who had been granted extensions during 1931-32 by the District Judge of Mymensingh have been dismissed?

(*b*) If so, are the Government considering the desirability of providing for them in some other districts?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) No.

(*b*) Does not arise.

3-15 p.m.

Kazi EMDADUL HOQUE: Will the Hon'ble Member be pleased to state whether any process-servers who had been granted extensions during the year 1931-32 by the District Judge of Mymensingh have been dismissed?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice.

Rent suits in Bengal.

*111. **Maulvi ABDUL HAKIM:** Will the Hon'ble Member in charge of the Judicial Department be pleased to lay on the table a statement showing district by district in Bengal for the calendar years 1930 and 1931—

(*i*) the number of suits for enhancement of rents including the number of rent suits with a prayer for enhancement instituted by landlords of Bengal;

(*ii*) the number of such suits decreed on contest;

(*iii*) the number of such suits decreed *ex parte;*

(*iv*) the number of such suits dismissed (if any);

(*v*) the rate of enhancement per rupee of rent claimed by landlords in each such suit;

(*vi*) the rate of enhancement per rupee of rent decreed by courts in each such suit; and

(*vii*) the number of suits for abatement of rents (if any) instituted in each district?

The Hon'ble Mr. W. D. R. PRENTICE: (*i*), (*ii*), (*iii*), (*iv*), (*v*), (*vi*) and (*vii*) The information asked for is not available and could not be obtained without n laborious inquiry which, the Government regret, they are not prepared to undertake.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to state as to why the information asked for is not available, seeing that the civil courts are still in existence in all the districts?

The Hon'ble Mr. W. D. R. PRENTICE: To prepare an answer to this question we should have to go through all the registers of rent suits and take out the various lists of suits referred to in the question, and tabulate them; an enormous amount of labour would be required thereby.

Maulvi ABDUL HAKIM: Does the Hon'ble Member realise that this information is urgently required by the tenants to lay their grievances before Government and ask for redress against enhancement in these years of economic distress?

The Hon'ble Mr. W. D. R. PRENTICE: Government are not aware of that.

Maulvi ABDUL HAKIM: Will the Hon'ble Member be pleased to give us an assurance that an answer will be given to this question in the next budget session which will be held about two months after, so that sufficient time will be available to Government?

The Hon'ble Mr. W. D. R. PRENTICE: I do not think Government will ask the civil courts to go through all the registers of rent suits for two years and compile a list such as is asked for: this would mean an enormous amount of work.

Maulvi ABDUL HAKIM: Will not the Hon'ble Member be able to gather all the information if he tries to do so from now onwards for the answer to be given in the budget session?

The Hon'ble Mr. W. D. R. PRENTICE: It would require a special staff to be put on this special inquiry and would cost a considerable amount of money.

Compulsory free primary education in Calcutta.

*112. **Mr. S. M. BOSE:** (*a*) Will the Hon'ble Minister in charge of the Education Department be pleased to state whether he has received any application from the Corporation of Calcutta in 1930 for

sanction under section 6 of the Bengal Primary Education Act, 1919, for the introduction of compulsory free primary education for boys in Ward IX?

(*b*) Is it a fact that the Corporation in their application have asked for no assistance from Government for the purpose?

(*c*) Are the Government considering the desirability of granting the necessary sanction at an early date, to enable the Corporation to make an experiment in the introduction of free and compulsory primary education in the capital of Bengal?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) and (*b*) Yes.

(*c*) Government have decided to grant the permission.

Mr. S. M. BOSE: Will the Hon'ble Minister be pleased to state when Government intend to intimate its sanction?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Very shortly.

Sub-inspectors of police from depressed classes.

*113. **Mr. MUKUNDA BEHARY MULLICK:** Will the Hon'ble Member in charge of the Police Department be pleased to lay on the table a statement showing for the year 1931—

(*i*) the number of appointments made as sub-inspectors of police—

(*a*) by direct recruitment, and

(*b*) on the nominations of the different authorities concerned;

(*ii*) the qualifications of the candidates appointed as such;

(*iii*) the number of candidates from amongst the depressed classes for these appointments;

(*iv*) the qualifications of the said depressed class candidates;

(*v*) the number of nominations, if any, made from amongst those candidates by the several nominating authorities; and

(*vi*) the number of appointments, if any, made from amongst them?

MEMBER in charge of POLICE DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*i*) (*a*) and (*b*) The total number of appointments made was 66 in the Bengal Police and 3 in the Calcutta Police. Of the appointments in the Bengal Police, 33 were made by promotion

and the rest by selection from candidates nominated by the Advisory Committees and the Deputy Inspectors-General. The appointments in the Calcutta Police were all made by promotion.

(*ii*) The qualifications of the 33 directly appointed candidates were as follows:—

M. A.—1.
B. A.—15.
B. Sc.—3.
I. A.—4.
I. Sc.—2.
Matric.—8.

(*iii*) 50.

(*iv*) B. A.—9.
I. A.—7.
I. Sc.—3.
Matric.—30.
Non-Matric.—1.

(*v*) 3.

(*vi*) 2.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state if he considers that B.As. are less qualified than matriculates for appointment even as sub-inspectors of police?

The Hon'ble Mr. W. D. R. PRENTICE: Educational qualifications are not the only qualifications taken into account for such appointments, there are other qualifications also.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state what other qualifications are taken into account?

The Hon'ble Mr. W. D. R. PRENTICE: General physique and ability.

Mr. MUKUNDA BEHARY MULLICK: Will the Hon'ble Member be pleased to state why out of 50 candidates only 3 were fortunate enough to get nominations?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid the Advisory Committees and the Deputy Inspectors-General thought that the other candidates were better qualified.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state if he is aware that 7 disqualified and over-aged candidates not belonging to the depressed classes were appointed in the Presidency Range alone from the year 1927 to 1931?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid I am not aware of that.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state why qualified candidates belonging to the depressed classes, although nominated by the District Committees and the Deputy Inspectors-General, were not finally appointed?

The Hon'ble Mr. W. D. R. PRENTICE: Because the Inspector-General gets lists of other people also sent up to him and he makes a selection from that list in accordance with his own judgment.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state whether the M.A. candidate was a disqualified candidate or not?

The Hon'ble Mr. W. D. R. PRENTICE: But he was appointed all the same.

Babu AMULYADHAN RAY: I am asking whether this M.A. candidate was over-aged or not?

The Hon'ble Mr. W. D. R. PRENTICE: I cannot say that.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state later on whether he was disqualified under the rules?

The Hon'ble Mr. W. D. R. PRENTICE: If the member gives me the reference I shall make inquiries.

Babu SATYA KINKAR SAHANA: Will the Hon'ble Member be pleased to state whether the 3 and 2 candidates that were taken from the depressed classes, belong to one caste among the depressed classes—for among the depressed classes there are about 47 castes?

The Hon'ble Mr. W. D. R. PRENTICE: We do not make any difference in caste. We treat the depressed classes as one class.

Malpahara realised in Chittagong.

*114. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the district of Chittagong from the 1st April, 1931, to the 30th September, 1932—

(*i*) what amount of arrears due to the Government was realised through certificates;

(*ii*) what amount as *malpahara* was realised; and

(*iii*) what amount was realised as *malpahara* without attestation?

(*b*) Are the Government considering the desirability of remitting the *malpahara* where attestation is not required?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter):

(*a*) (*i*) Rupees 2,42,358.

(*ii*) The fees realised under schedule II, rule 38 of the Public Demands Recovery Act, amounted to Rs. 5,536.

(*a*) (*iii*) and (*b*) The member is referred to rule 38 under which certain fees are charged where process of attachment of movable property by actual seizure is issued. There is no mention of attestation in the rule.

Appointment of depressed class Hindus as clerks in the criminal courts of Faridpur.

*115. **Rai Sahib AKSHOY KUMAR SEN:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the years 1928 to 1931—

(*i*) how many clerks were appointed in the criminal courts of Faridpur; and

(*ii*) how many of them belong to the depressed class of Hindus?

(*b*) Are the Government considering the desirability of appointing more clerks from the depressed class of Hindus?

The Hon'ble Sir PROVASH CHUNDER MITTER:

(*a*) (*i*) 17.

(*ii*) 1.

(*b*) Government have given the matter their attention and issued a memorandum on the 28th April, 1931, on the subject of the recruitment of members of the backward classes to ministerial appointments under Government. The District Magistrate, Faridpur, reports that the instructions in the memorandum are now being followed.

Issue of notices on the raiyats of defaulting jotedars from the certificate officer of Cossimbazar Raj wards' estate at Rangpur.

*116. **Kazi EMDADUL HOQUE:** (*a*) Is the Hon'ble Member in charge of the Revenue Department aware that the certificate officer for Cossimbazar Raj wards' estate in Rangpur has been issuing notices on the *raiyats* of the defaulting *jotedars* threatening them with the loss of their interest in the *jotes* if they fail to pay their dues, by a certain date appointed by such officer?

(*b*) Is the Hon'ble Member also aware that the said dues are stated to be due for a period varying from five to ten years?

(*c*) What is the authority under which such notices are being issued?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Notices have been issued to under-tenants of certificate debtors asking them to pay as much as they can of the rent due. The object of such notices was not to threaten them, but they were issued for the reasons given in the answer to (*c*).

(*b*) No, but inquiry will be made.

(*c*) The under-tenants have a right under section 172 of the Bengal Tenancy Act to prevent the sale of a superior tenure or holding. The notices were issued at the instance of the *jotedars* both in order to avoid bringing the *jotes* to sale and to draw the attention of the under-tenants to the possible consequences of the *jotedar's* interest being sold.

Kazi EMDADUL HOQUE: Will the Hon'ble Member be pleased to state if he is in possession of any such notices as are referred in the answer?

The Hon'ble Sir PROVASH CHUNDER MITTER: I believe I saw such notices but I do not remember the details.

Kazi EMDADUL HOQUE: Will the Hon'ble Member be pleased to state whether he is in a position to contradict me if I say that these notices distinctly state that unless the under-tenants pay their rent within a certain period their interests will be sold?

The Hon'ble Sir PROVASH CHUNDER MITTER: Such notices would be perfectly in order if they were given to an under-*raiyat* or to a tenure-holder but I cannot say definitely without referring to the notices.

Helpless condition of zamindars in realisation of rents and cesses.

***117. MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a statement showing for the last five years, district by district,—

(*i*) the number of distress warrants issued against defaulting *zamindars* for arrears of cesses and other Government dues; and

(*ii*) the number of warrants of arrest issued against *zamindars* by certificate officers for arrears of cesses and other Government dues?

(*b*) Is the Hon'ble Member aware that the certificate officer of Nadia is constantly issuing distress warrants against *zamindars* as well as warrants of arrest for the realisation of cesses and other Government dues?

(*c*) Is the Hon'ble Member aware of the helpless condition of the *zamindars* in the realisation of rents and cesses owing to prevailing economic distress?

(*d*) Are the Government considering the desirability of instructing the certificate officers to be lenient in their dealings with the defaulting *zamindars*?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) (*i*) and (*ii*) The statistics required for an answer to these questions are not readily available and could not be obtained without a laborious inquiry which Government regret they are not prepared to undertake.

(*b*) Distress warrants are issued in cases in which payment is not made by certificate debtors, and warrants of arrest are issued in long pending cases when other means of realisation have failed and time has been granted repeatedly.

(*c*) It is true that collections are not satisfactory in many districts.

(*d*) No. So far as Government are aware, certificate officers are dealing leniently with *zamindars* who are unable to pay.

MUNINDRA DEB RAI MAHASAI: With reference to answer (*b*) will the Hon'ble Member be pleased to state why, in view of the prevailing financial stringency, warrants of arrest should be issued in cases where other means of realisation have failed?

The Hon'ble Sir PROVASH CHUNDER MITTER: After other methods have failed, that is the ultimate process.

MUNINDRA DEB RAI MAHASAI: With reference to answer (*d*) will the Hon'ble Member be pleased to state whether the issue of warrants of arrest is a lenient method of dealing with the defaulting *zamindars*?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes; supposing the default is 2 years or 18 months old, and they do not pay, the dues have got to be realised.

Expenditure on non-Government secondary and primary education.

*118. **Mr. S. M. BOSE:** Will the Hon'ble Minister in charge of the Education Department be pleased to lay on the table a comparative statement showing the grants voted by the Council for 1931-32 for—

(*i*) direct grant to non-Government secondary schools;

(*ii*) direct grant to non-Government primary schools; and

(*iii*) grant to local bodies for primary education, as compared with the amounts actually spent on these different heads for that year?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*), (*ii*) and (*iii*) A statement is laid on the table.

Comparative statement referred to in the reply to starred question No. 118, showing the grants voted by the Council the actual expenditure under the following heads for the year 1931-32.

TRANSFERRED.

Heads.	Grant.	Expenditure.
	Rs.	Rs.
(i) Direct grant to non-Government secondary schools ..	14,04,000	13,45,126
(ii) Direct grant to non-Government primary schools	3,77,500	3,75,561
(iii) Grant to local bodies for primary education	22,40,000	22,30,419

Mr. S. M. BOSE: Will the Hon'ble Minister be pleased to state why Government were unable to spend such a large sum as Rs. 70,400?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: On which head?

Mr. S. M. BOSE: I have added up the figures and find that they come to Rs. 70,400: Will the Hon'ble Minister be pleased to state why they were unable to spend this large amount?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: Savings mainly occurred under the following detailed heads which are explained below:—

Direct grants to non-Government secondary schools.

(1) *Contribution to Teachers' Provident Fund.*—Owing to fluctuation in the number of teachers admitted to the scheme, due to resignation, retirement, death and leave of teachers small savings in the individual schools accrued towards the end of the year which could not be ascertained in time to admit new schools.

(2) *Furniture and equipment grant.*—The bulk of the allotment was meant for equipment grants to schools adopting the agriculture scheme. A sum of Rs. 2,000 was surrendered from this head for a grant to an agricultural school in the Chittagong Hill Tracts. Large savings occurred due to failure of certain schools, which had originally accepted the scheme to comply with the requirements. No grant was therefore given to them.

(3) *Other grants.*—The lump provision was intended for Physical Education. A sum of Rs. 3,800 was transferred for grants to non-Government *madrasahs*, training schools, *guru*-training schools and for Dacca Board of Education. In addition a sum of Rs. 6,277 was surrendered to Government due to the failure of certain schools to comply with the conditions laid down for the grant.

(4) *Building grant.*—The provision of Rs. 40,000 was intended for works in progress only. As the works could not be completed during the year large savings occurred.

Grants to local bodies for Primary Education: (*Recurring*).—There were some savings under the head due to non-materialisation of some Biss' schemes already sanctioned or pending with Government for sanction.

Mr. S. M. BOSE: Will the Hon'ble Minister be pleased to give us an assurance that this saving was not due to the insistence of the Finance Department?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: No, Sir, nothing of the kind.

Maulvi SYED MAJID BAKSH: Sir, may I know how the Hon'ble Minister could know that such a supplementary question would be asked, so that he prepared such a lengthy answer?

Babu JITENDRALAL BANNERJEE: It was intelligent anticipation.

Indas and Roll High Schools in Bankura.

*119. **Babu SATYA KINKAR SAHANA:** (*a*) Is the Hon'ble Minister in charge of the Education Department aware—

(*i*) that the Indas High English School in the district of Bankura owes its origin and existence to the self-sacrificing zeal of a noble scion of the Malla Rajas, the late Babu Bolindra Sinha Deb; and

(*ii*) that there is another high English school, the Chaudhuri Tayeb Institution, in village Roll some four miles north of Indas?

(*b*) Is the Hon'ble Minister also aware that both the said schools have been reported as doing well in the matter of spreading education in the respective localities?

(*c*) If the answers to (*a*) and (*b*) are in the affirmative, will the Hon'ble Minister be pleased to lay on the table a statement showing for the last ten years—

(*i*) the number of boys sent up;

(*ii*) the number of successful boys from each of the said schools;

(*iii*) from what year the two schools have been receiving Government aid; and

(*iv*) the amount of Government aid received by each school every month up to the present month?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*a*) (*i*) The Indas High English School was established in 1893 by certain gentlemen of the locality, including the late Babu Bolindra Sinha Deb.

(*ii*) and (*b*) Yes.

(*c*) (*i*), (*ii*) and (*iii*) A statement is laid on the table.

(*iv*) A statement is laid on the library table.

Statements showing the number of boys sent up and passed from the Indas High English School and Roll C. M. Tayeb Institution during each of the years from 1922 to 1932 referred in the reply to (c) (i) and (ii) of starred question No. 119.

Years.	Number sent up.	Number passed.
Indas High English School.		
1923	9	9
1924	6	6
1925	11	10
1926	8	3
1927	11	6
1928	6	2
1929	4	3
1930	7	6
1931	7	7
1932	7	4
Roll C. M. Tayeb Institution.		
1922	8	5
1923	8	5
1924	12	4
1925	7	5
1926	11	4
1927	6	3
1928	5	2
1929	4	1
1930	5	2
1931	4	2
1932	4	2

(*c*) (*iii*) Years from which the schools have received Government aid—

Roll High English School—1894-95.

Indas High English School—1925-26.

Sundarban estates.

*120. **Mr. SURENDRA NATH LAW:** (*a*) Will the Hon'ble Member, in charge of the Revenue Department be pleased to lay on the table a list of Sundarban estates held under the rules of 1853 and 1879, which have fallen in arrears of revenue during the last two years as well as in the current official year?

(*b*) Will the Hon'ble Member be pleased to state in respect of which of these estates—

(*i*) revenue was enhanced on the expiry of the initial period of lease; and

(*ii*) the extent of such enhancement in each case?

(*c*) Has any representation been received by the Government from the Sundarban landholders for the grant of equitable relief?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state what action, if any, is proposed to be taken in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) and (*b*) A statement is laid on the table. It is reported that very few are now in arrears.

(*c*) Yes.

(*d*) The matter is under consideration.

Statement referred to in the reply to clauses (a) and (b) of starred question No. 120 (i) showing the Sundarbans lots in the districts of the 24-Parganas, Khulna and Bakarganj held under the rules of 1853 and 1879 which were in arrears in respect of land revenue during the last two years as well as in the current official year.

UNDER RULES OF 1853.

24-Parganas.

1329	1378	1387	1404	1450	1869
1345	1379	1388	1439	1465	2250
1359	1381	1400	1441	1477	2333
1370	1386	1421	1443	1493	3056

UNDER RULES OF 1853.

Khulna.

854 922

Bakarganj.

4554 7158 7159

UNDER RULES OF 1879.

24-Parganas.

1457	2828	2878	2903	2939	2977
2667	2847	2880	2904	2940	2981
2688	2848	2881	2906	2941	2987
2710	2849	2883	2908	2942	2989
2711	2853	2884	2909	2944	2990
2712	2855	2885	2910	2945	2991
2714	2857	2886	2911	2946	2993
2721	2864	2887	2912	2947	3011
2722	2865	2888	2913	2949	3014
2731	2866	2890	2914	2953	3017
2732	2850	2891	2915	2954	3019
2733	2851	2892	2917	2956	3020
2739	2856	2894	2923	2957	3022
2740	2858	2895	2924	2960	3023
2808	2868	2897	2925	2965	3026
2823	2869	2898	2926	2966	3030
2825	2873	2899	2927	2967	3032
2841	2874.	2900	2929	2971	3034
2842	2875	2901	2932	2972	3037
2843	2876	2902	2938	2973	3133 3136

Khulna.

1003 1006 1013

Bakarganj.

4573 4600 5007 5008

(ii) *showing the defaulting Sundarbans lots in the districts of the 24-Parganas, Khulna and Bakarganj which have been resettled with enhanced revenue.*

24-Parganas.

Estates held under rules of 1853.			Old revenue.	New revenue.
			Rs.	Rs.
1329	..	..	555-10-6	3,117
1345	..	..	1,278-12-11	5,217
1359	..	..	183-13-5	1,158
1370	..	..	702-2-6	5,516
1378	..	..	356	4,276
1379	..	..	356	4,137
1381	..	..	98-14-2	1,991
1386	..	..	162-10	3,138
1387	..	..	272-13-3	4,201
1439	..	..	1,337	9,019
1443	..	..	930-3	5,728
1477	..	..	1,151-6	8,726
1493	..	..	1,459-8	9,657
2250	..	..	90-11	530
3056	..	..	95-4-2	2,377-15

24-Parganas.

Estates held under rules of 1879.			Old revenue.	New revenue.
			Rs.	Rs.
1457	..	..	2,548	5,997
2687	..	..	935-15	2,812
2688	..	..	1,177	3,765
2710	..	..	865	2,776
2712	..	..	1,429	3,275
2714	..	..	1,055	3,473
2721	..	..	1,200	3,677
2722	..	..	938	6,275
2731	..	..	938	4,253
2732	..	..	843-5	3,110
2733	..	..	938	5,925
2739	..	..	938	4,715
2740	..	..	938	2,872
2808	..	..	206	838
2823	..	..	938	4,707
2825	..	..	938	4,676

Khulna.

Estates held under rules of 1853.			Old revenue.	New revenue.
			Rs.	Rs.
Nil	..	..	Nil	Nil.

Khulna.

Estates held under rules of 1879.	Old revenue.	New revenue.
	Rs.	Rs.
1003	1,125	3,659
1006	938	3,920
1013	938	2,270

Bakarganj.

Estates held under rules of 1853.	Old revenue.	New revenue.
	Rs.	Rs.
Nil	Nil	Nil.

Bakarganj.

Estates held under rules of 1879.	Old revenue.	New revenue.
	Rs.	Rs.
4600	25,170	26,851

Sundarban estates.

*121. **MUNINDRA DEB RAI MAHASAI:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state the number of the Sundarban estates, originally created under the Grant Rules of 1853 and 1879, which having been given up by settlement-holders are now under the *khas* management of Government?

(*b*) Will the Hon'ble Member be pleased to state whether the *khas* management has been more profitable to the Government?

(*c*) Will the Hon'ble Member be pleased to state whether any of these estates have been washed away by salt water?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) whether the Government have succeeded in reclaiming any of them; and

(*ii*) what has been the approximate cost of such reclamation?

(*e*) Will the Hon'ble Member be pleased to state—

(*i*) what is the present annual cost of maintenance of embankment in each of these estates; and

(*ii*) what proportion such annual costs bear to the gross collection of each estate?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Government have no information that any such lots have been given up by the settlement-holders.

(*b*), (*c*), (*d*) and (*e*) Do not arise.

3-30 p.m.

MUNINDRA DEB RAI MAHASAI: With reference to answer (*a*), will the Hon'ble Member be pleased to state whether he is prepared to make inquiries into the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: We have made inquiries, and this is the result of the inquiries.

Khan Bahadur Maulvi AZIZUL HAQUE: In view of the answer to question No. 120 that very few estates are in arrears, does it not follow that these settlement-holders are in very good condition?

(No reply.)

UNSTARRED QUESTIONS

(answers to which were laid on the table)

Backward classes of Muslim community and recruitment to services.

31. Maulvi ABDUS SAMAD: (*a*) Is the Hon'ble Member in charge of the Appointment Department aware—

(*i*) that candidates for the post of sub-inspectors of police have to apply in prescribed printed forms in which there are columns wherein the candidates have to state the nature of their status in society and also their relationship, if any, with some Government servant;

(ii) that in the matter of recruitment of candidates for Police Service and for ministerial services in the civil and criminal courts, other qualifications being equal, preference is given to candidates belonging to higher status of society and having relationship with persons holding Government service; and

(iii) that for reasons stated above candidates belonging to the backward classes of the Hindu and Muhammadan communities, who can neither show respectable birth nor respectable connection, are placed in a very disadvantageous position in the matter of securing nomination and appointment?

(b) Will the Hon'ble Member be pleased to state whether, with a view to encourage higher education among the backward classes, the Government are considering the desirability of reserving a certain proportion of the services under the Government for qualified candidates belonging to the backward classes of the different communities?

(c) If the answer to (b) is in the affirmative, will the Hon'ble Member be pleased to state whether the Government are considering the desirability of issuing special instructions to all local authorities entrusted with the duty of making nomination and appointment?

(d) Is the Hon'ble Member aware that about 95 per cent. of the Muslim community in Bengal are backward in the sense in which that word is used in relation to the depressed class Hindus?

(e) If the answer to (d) is in the affirmative, will the Hon'ble Member be pleased to state whether the special treatment accorded to the depressed class Hindus in the matter of service and appointment should also be extended to the backward classes of the Muslim community?

(f) Will the Hon'ble Member be pleased to state what steps, if any, have the Government taken to provide facilities for the recruitment to different services candidates belonging to the backward classes of the Muslim community?

MEMBER in charge of APPOINTMENT DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (a) (i) Candidates have to state their father's name and occupation and their caste and the names of relations, if any, in Government service.

(ii) These factors are taken into consideration; but it does not follow that preference is always given to candidates who possess these qualifications.

(iii) Special instructions exist so that due consideration shall be given to candidates from the backward classes and from the Muhammadan communities. From each group of candidates the best are selected.

(*b*) Government already reserve to themselves the right to fill up to 10 per cent. of the vacancies in certain services by the nomination of suitable qualified candidates from the minority communities and backward classes, if no such candidate has been successful in the competitive examination. A list of such communities has been included in the rules.

(*c*) Such instructions have already been issued to the Government departments concerned.

(*d*) No.

(*e*) and (*f*) Do not arise.

Maulvi ABDUS SAMAD: Will the Hon'ble Member be pleased to state whether it is not a fact that Moslem agriculturists, artizans and labourers occupy position analogous to that of Namasudras, Satgops and other depressed classes?

The Hon'ble Mr. W. D. R. PRENTICE: We do not recognise any differentiation in regard to Muhammadans.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if he accepts the policy enunciated by the Hon'ble Minister in charge of Education as regards appointments?

The Hon'ble Mr. W. D. R. PRENTICE: I think that is what I said when dealing with a resolution on the subject by the Rai Mahasai last year.

Maulvi ABDUS SAMAD: Does the Hon'ble Member consider the desirability of giving special consideration in the matter of appointment of qualified candidates hailing from Moslem agriculturists and artisans?

The Hon'ble Mr. W. D. R. PRENTICE: No: I have already said that we deal with all the Muhammadans in the same way.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether there is any classification amongst depressed classes?

The Hon'ble Mr. W. D. R. PRENTICE: There is a certain list which is attached to the Provincial Services Rules.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state whether it is not a fact that there is no depressed class in the Muhammadan community?

The Hon'ble Mr. W. D. R. PRENTICE: This is a matter for the Muhammadans.

Provincial Text Book Committee.

32. Rai Bahadur KESHAB CHANDRA BANERJI: Will the Hon'ble Minister in charge of the Education Department be pleased to state—

(*i*) whether it is a fact that the sub-committee meetings of the Provincial Text Book Committee for the selection of text books in Bengal were held on the 29th, 30th and 31st of August, 1932;

(*ii*) whether, in accordance with the rules of the Provincial Text Book Committee, "Alphas" are awarded to books of best merit, "Betas" to books of tolerable merit and "Gammas" to books of the least merit;

(*iii*) whether the Secretary of the Provincial Text Book Committee, after tabulating the opinions of books on each subject, is to place the books serially in terms of their individual and relative merit before the sub-committee meetings for consideration as text books;

(*iv*) whether there has been any deviation from this principle in the sub-committee meeting held on the 29th of August to consider the cases of books on "English Translation and Composition" for classes V and VI;

(*v*) whether it is a fact that preference was given to books with one "Alpha," one "Beta" and one "Gamma" over those with two "Alphas" and one "Beta" or one "Alpha" and two "Betas";

(*vi*) whether the books on Bengali Grammar for classes V and VI were considered in the sub-committee meeting held on the 31st of August, 1932; and

(*vii*) whether it is a fact that some books on Bengali Grammar securing two "Alphas" and one "Beta" were selected in preference to others?

The Hon'ble Mr. KHWAJA NAZIMUDDIN: (*i*) Yes.

(*ii*) The marking of the books with "Alpha," "Beta," "Gamma" is not prescribed in the rules of the Provincial Text Book Committee; but instructions are issued to examiners of books to mark a book with "Alpha," "Beta" or "Gamma" according to their opinion of its merit, as this is the easiest method of classification.

(*iii*) Opinions on various books received from examiners are tabulated only for facility of reference in the meeting; but the merit of each book is discussed at the sub-committee meeting, irrespective of the marks it has secured from the examiners, and the sub-committee's recommendation is submitted accordingly.

(*iv*) The procedure indicated above was followed in the sub-committee meeting in question.

(*v*) and (*vii*) The proceedings are confidential, and Government regret that they are unable to disclosse what took place at them.

(*vi*) Yes.

Mymensingh District Board.

33. Maulvi ABDUL HAMID SHAH: (*a*) Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) when the Mymensingh District Board was last constituted; and

(*ii*) when the usual term of three years of the board lapsed?

(*b*) What are the reasons for not reconstituting the board?

(*c*) When were the elections of members of the different local boards of the Mymensingh district last held?

(*d*) When were the local boards last reconstituted?

(*e*) Have the local boards elected their representatives to the district boards after the reconstitution? If so, when?

(*f*) What are the reasons for not publishing in the *Calcutta Gazette* the result of the elections?

(*g*) Is the Hon'ble Minister aware—

(*i*) that many of the members representing the interests of the different local boards in the present committee of the district board of Mymensingh have ceased to be the members of these local boards owing to the new election which took place in April, 1931; and

(*ii*) that the interests of these local boards are represented by those who are not in touch with the present local boards?

(*h*) Are the Government considering the desirability of dissolving the present district board without further delay?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) (*i*) On 6th November, 1932, by notification in the *Calcutta Gazette*.

(*ii*) 4th October, 1930.

(*b*) The reasons why reconstitution was delayed were, initially, the decision to modify the rules so as to enable the district board to avoid the expense of printing the electoral roll, and, subsequently, the difficulties that arose in connection with irregularities and alleged irregularities in the election of local board and district board members.

(*c*) April and June, 1931.

(*d*) 1st February, 1932, by notification in the *Calcutta Gazette*.

(*e*) Yes: in March, 1932.

(*f*) Does not arise.

(*g*) (*i*) and (*ii*) In view of the reply to clause (*a*) this is no longer the case.

(*h*) Does not arise.

Cess defaulting estates of Bogra and Pabna.

34. Dr. JOGENDRA CHANDRA CHAUDHURI: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state the number of estates sold for non-payment of cesses during the last year and the present year up to date in the districts of Bogra and Pabna?

(*b*) Are the Government considering the desirability of issuing instructions to the Collectors of the said districts to deal with defaulting estates leniently till the present economic condition of the country improves?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) A statement is laid on the table.

(*b*) Instructions to this effect have already been issued by the Board of Revenue.

Statement referred to in the reply to clause (a) of unstarred question No. 34, showing estates sold for non-payment of cesses.

District.	Sold for non-payment of cesses.	
	1931-32.	1932-33 up to date.
Bogra	6	5*
Pabna	8	2

* Sales were set aside in four cases on payment of dues and one case is pending for confirmation of sale.

Sundarban estates.

35. Mr. P. BANERJI: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether he has received any memorials from the Sumlarban Landholders' Association stating their grievances under the new rules for resettlement of the Sundarban estates held under the Grant Rules of 1853 and 1879?

(*b*) If so, how many such memorials have been received and what were the dates of receipt in each case?

(*c*) Do the Government intend making any further inquiry into the grievances of these settlement-holders as set forth in the aforesaid memorials?

(*d*) Have the said memorials been disposed of? If so, with what result?

(*e*) If they have not been disposed of yet, will the Hon'ble Member be pleased to state the reason for the delay?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*), (*c*), (*d*) and (*e*) The member is referred to the answers given on the 5th December, 1932, to starred question No. 55, asked by Mr. Surendra Nath Law.

Sundarban estates.

36. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state whether he has received any memorial from the Sundarban Landholders' Association stating their grievances under the new rules for resettlement of the Sundarban estates held under the Grant Rules of 1853 and 1879?

(*b*) If so, when and how many such memorials have been received by him?

(*c*) Have the said memorials been disposed of? If so, with what result?

(*d*) If the answer to (*c*) is in the negative, will the Hon'ble Member be pleased to state the reasons for the delay?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*), (*c*) and (*d*) The member is referred to the answers given on the 5th December, 1932, to starred question No. 55 asked by Mr. Surendra Nath Law.

Sundarban estates.

37. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to lay on the table a list of the Sundarban estates held under the rules of 1853 and 1879 which have fallen in arrears of revenue during the last two years as well as in the current official year?

(*b*) Will the Hon'ble Member be pleased to state in respect of which of these estates—

(*i*) revenue was enhanced on the expiry of the initial period of lease; and

(*ii*) the extent of such enhancement in each case?

(*c*) Has any representation been received by the Government from the Sundarban landholders for the grant of equitable relief?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state what action, if any, is being taken in the matter?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*), (*b*), (*c*) and (*d*) The member is referred to the answers given to an identical starred question put at this meeting by Mr. Surendra Nath Law.

Sundarban estates.

38. Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state the number of the Sundarban estates, originally created under the Grant Rules of 1853 and 1879, which having been given up by the settlement-holders, are now under the *khas* management of the Government?

(*b*) Will the Hon'ble Member be pleased to state whether the *khas* management has been more profitable to the Government?

(*c*) Will the Hon'ble Member be pleased to state whether any of these estates have been washed away by salt water?

(*d*) If the answer to (*c*) is in the affirmative, will the Hon'ble Member be pleased to state—

(*i*) whether the Government have succeeded in reclaiming any of them; and

(*ii*) what has been the approximate cost of such reclamation?

(*e*) Will the Hon'ble Member be pleased to state—

(*i*) what is the present annual cost of maintenance of embankment in each of these estates; and

(*ii*) what proportion such annual costs bear to gross collection of each estate?

The Hon'ble Sir PROVASH CHUNDER MITTER: (*a*) Government have no information that any such lots have been given up by the settlement-holders.

(*b*), (*c*), (*d*) and (*e*) Do not arise.

GOVERNMENT BILLS.

(The discussion on the Bengal Public Security Bill, 1932, was then resumed.)

Clause 7.

Mr. PRESIDENT: The question is that clause 7 stand part of the Bill.

Mr. P. BANERJI: I beg to move that clause 7 be omitted.

Sir, in moving this motion I beg to say that the Police and the Criminal Investigation Department have already been empowered to intercept letters and other things, and I think no further power is necessary. In this clause it has been stipulated that the District Magistrate, if in his opinion it is necessary for the public advantage, may control the operation of any post, telegraph, telephone office or station. I consider that this control of postal and telegraphic stations will never be to the public advantage: on the other hand it will be rather a great disadvantage for the public. The telegrams, letters and other postal articles will not only be intercepted, as is usually done

at present, but under this clause they will be prohibited and controlled. Therefore, Sir, what will be the result? The result will be that the public will not take the postal department into their confidence and they will not subscribe to the Government postal system. Perhaps it is within the knowledge of the Hon'ble Member that in Bombay the people have introduced a sort of postal system of their own and the result has been that the Government postal revenue in Bombay has considerably decreased. Similarly, if this clause is retained the revenue in this province will be decreased. Moreover, Sir, I find that here no provision has been made for the refund of money in the case of any telegrams, letters or postal packets being withheld or prohibited.

I think, Sir, it is right and proper and it stands to reason that in such cases there should be a refund of the money spent on telegrams or other postal articles thus prohibited or controlled. I do not quite understand how in the circumstances it could be said that the measure proposed is for public advantage. I think that not only a refund should be made in such cases, but some compensation should be made for the inconvenience to which the senders of such letters and telegrams are put. I think at least there should be some safeguard for preventing unnecessary harassment.

Sir, the press has been gagged and the public platform has been gagged, and if in this way the letters and telegrams and other postal communications are prevented from reaching their destination on the slightest pretext, the position, I may say, will be impossible: how will it be possible for an ordinary lay man to bring to the notice of higher authorities any case of ill-treatment or suffering at the hands of the police? Sir, the other day when I brought to the notice of the Hon'ble Member the havoc which is being created by the police and military at Midnapore, he said that no complaint has been made to him. I may say that when this law is passed and more extraordinary powers are given in this respect to the police and the magistracy, it will be absolutely impossible for any complaint reaching the Hon'ble Member, and what will be the result? The result will be that all letters of complaint will be held back by the local authorities.

Now, how is it possible for a lay man to make a complaint if his letter or telegram complaining against police or other local officers are gagged. The result of this will be that innocent people will suffer and they will get no redress from the higher authorities, and they may find some other agency of communication other than the postal to the great detriment of the revenue of this province. Therefore, Sir, I propose that this clause be deleted. I hope the Hon'ble Member will pause thrice before passing this clause into law: he should take into his consideration that it will not only decrease the revenue but it may worsen the situation—it is a great subversive measure and I appeal to him not to press for its inclusion in the Act.

CHIEF SECRETARY to GOVERNMENT (Mr. R. N. Reid): Sir, this is an amendment which Government must oppose. The mover of the amendment has threatened us with dire results if we retain this clause, in that it will diminish Government revenue, because those whose correspondence is intercepted by the use of this clause, will at once set up an agency of their own for sending letters, telegrams and other postal packets. (A VOICE: They have already done that in Bombay.) No doubt the hon'ble mover is prepared to take responsibility for the statement that he has made, with the implication which I infer from it, that the Bombay postal revenue has gone down by leaps and bounds. I may draw the attention of the House to the fact that a provision similar to this clause is in the Ordinance which has been in force since June and was in the Ordinance which was introduced in January last. In this province, at any rate, I do not think there is any indication that any very flourishing alternative agency has been set up for replacing the Government postal services or that the revenue from the postal services has seriously diminished.

As regards Bombay, we have the authority of the mover in regard to this matter; but he has given us no figures to show by how much the revenue has diminished. In any case, that is a point which, even if it was a fact, Government would have to face in the event of the emergency with which this Bill is designed to deal. This clause has been of considerable use as experience has shown, and it is, I think, a reasonable clause, and it is to the public advantage that such a clause should be in existence. For, obviously, it is not to the public advantage that the Government system of post and telegrams should be made use of by persons who are out to do what they can, to bring about disadvantage to the public. Sir, I beg to oppose the amendment.

The motion of Mr. P. Banerji was put and lost.

Mr. PRESIDENT: The question is that clause 7 stand part of the Bill.

The motion was put and agreed to.

Clause 8.

Mr. PRESIDENT: The question is that clause 8 stand part of the Bill.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 8, in line 3, the word "assistant" be omitted.

Mr. PRESIDENT: Will you move your other amendment in connection with this clause, at the same time?

Rai Bahadur Dr. HARIDHAN DUTT: The point is that if my amendment No. 32 is accepted by the House then No. 35 will not be necessary.

Mr. PRESIDENT: In that case you might withdraw it: you can move both and make one speech.

Rai Bahadur Dr. HARIDHAN DUTT: I beg to move that in clause 8, in line 3, after the word "sub-inspector" the words "competent for the purpose" be inserted.

Sir, so far as I am aware, many of these assistant sub-inspectors are quite illiterate and not capable of understanding or following what takes place in a meeting. If I am wrong, Sir, in my statement I hope I shall be contradicted; but my information is that sub-inspectors are men of such education as would entitle them to be sent for taking reports of a meeting. But if the work is entrusted to an assistant sub-inspector who is no better than an ordinary constable in respect of education, the result will be that the speakers in such meetings will be at the mercy of these illiterate persons. Of course, I do not say that all of them are illiterate, but most of them are. I do not think it is the intention of Government to send illiterate men in the police service to a meeting to take a report on which action of Government depends. So what I am suggesting is that the word "assistant" may be done away with, so that the sub-inspector may be the lowest officer to whom this responsible work should be entrusted.

3-45 p.m.

MUNINDRA DEB RAI MAHASAI: I beg to support the motion of my friend Rai Bahadur Dr. Dutt. This is a most reasonable request and I hope the Hon'ble Home Member will kindly see his way to accept it. Many things depend on the report of the police officer. It should, therefore, be done by an experienced and responsible officer. An assistant sub-inspector is likely to be a very junior officer not fully cognisant of the serious consequences that may follow when action is taken on the basis of the report to be given by him.

Mr. R. N. REID: Mr. Dutt is perfectly correct in his surmise that it is not the intention of Government to entrust illiterate officers to report public meetings. In the first place it is not correct to say that the assistant sub-inspectors are as a rule totally illiterate as he suggests.

Rai Bahadur Dr. HARIDHAN DUTT: I never said that as a rule they are illiterate but what I said was that many of them are.

Mr. R. N. REID: I should say that a majority of them are well educated and obviously on practical grounds it would be absurd to send any illiterate man to report a public meeting. If he did so his report would be worthless, it would not be a report which an executive officer could act upon and it would not be a report on which any judicial officer could take action.

Mr. NARENDRA KUMAR BASU: Do not be so sure of that.

Mr. R. N. REID: Anyhow I think the omission of the word "assistant" would make it on practical grounds a source of inconvenience because it is not a fact that on all possible occasions when a meeting is being held a sub-inspector is available and the intention of the clause is to give an opportunity to the local officer to fall back on a literate assistant sub-inspector.

I beg to oppose the motion.

The motions of Rai Bahadur Dr. Haridhan Dutt were put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that the explanation to clause 8 be omitted.

I know that it would be said immediately that this explanation was in the Ordinance and therefore ought to be retained but we are not responsible for the Ordinance or for its language, and we are not asked to make ourselves responsible for that. We are asked to make ourselves responsible for the language of the present Bill when it is enacted and for the purpose of my amendment I submit that this explanation just means this: that the police will have the right to go into and enter any place where several persons are congregated or are talking together. The explanation says "for the purpose of this section a public meeting is any meeting which is open to the public or to any class or portion of the public and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise". I shall ask the Hon'ble Member or Mr. Reid whoever may be pleased to answer for Government whether he can think of any meeting except the meeting of the Executive Council of His Excellency the Governor which does not come within the purview of this explanation. Why I make an exception in the case of the meeting of the Executive Council I do not know because that is also attended by a class of men who are well-known to us where admission is not restricted by ticket or otherwise but whether only by force of sentries I do not know. I submit that to retain this explanation would be in fact giving the widest possible power to the precious assistant sub-inspector to poke his nose into a private house where he thinks a meeting is taking place and if several members of the family are talking over their domestic matters the

assistant sub-inspector may go there and say that he has the best reason to believe that that was a public meeting under this explanation and he has to go in and make a report. I submit it would make life intolerable if this explanation were allowed to remain on the statute book and it will be a blot on the members of this House if they would allow this explanation to stand.

Mr. R. N. REID: I think Mr. Basu has drawn too lurid a picture of the vagaries of his supposititious assistant sub-inspector because after all an assistant sub-inspector or a sub-inspector does not go hunting for family meetings to which he wants to poke his nose. He can only act under orders in writing from the District Magistrate and not otherwise. (A VOICE: Acting on information.) Anyhow this clause gives power to the District Magistrate and not to assistant sub-inspectors. Therefore I do not think that his apprehensions are very well founded. It is perfectly true that the Explanation is widely worded and the justification for that is, as I have said before, found in clause 1 of this Bill in case of emergency and it is also designed to meet the ingenuity of those persons who, experience has shown, are ready to get round any enactment of the law for their own purposes and to use the cloak of privacy for meetings which are not really private. That family members in a private house are going to be subjected to inquisitorial visits from the assistant sub-inspector or other persons is not in the least likely.

I beg to oppose the amendment.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Bhaduri, Mr. P.
Bannerjee, Babu Jitendralal.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Dr. Jogendra Chandra.
Chowdhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Gupta, Mr. J. N.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hemeni.
Roy Choudhuri, Babu Hem Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.

Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Lesson, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Ross, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Bebeti Mohan.
Sen, Mr. S. R.
Sen, Rai Sahib Akshoy Kumar.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 29 and the Noes 59 the motion was lost.

4 p.m.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in the explanation to clause 8, in line 2, after the word "meeting" occurring in the second place the words "excepting on social, religious and constitutional question" be inserted.

Sir, I would have been very glad if that explanation had been omitted altogether as was proposed in the previous amendment moved by Mr. Narendra Kumar Basu, but when that motion has been defeated I think it should be the only course open for the Government as well as for the members of this House to accept this amendment. It is certainly not the intention of Government to send an assistant sub-inspector of police with a posse of constables with him to any religious meeting or any meeting which considers constitutional reforms or constitutional questions or to a meeting which considers about the social uplift or social problems of the province. Sir, it is unthinkable that when a religious meeting is going on there appears on the scene an assistant sub-inspector with a number of constables. Sir, in that meeting the appearance of so many policemen will really cause much consternation and anxiety in the minds of religiously-minded people who will be attending that meeting. We know how it has been attempted by the police when most harmless questions were being considered to interfere and stop such meetings. Only the other day, we heard in reply to some

supplementary questions how a meeting, over which one of the members of this Council wanted to preside, I mean Maulvi Abdul Hamid Shah, and which was called to discuss the Bengal Money-lenders' Bill, was stopped. In such meetings and other meetings in which the most burning questions of the day, for instance, the uplift of the depressed classes, their social status and other matters are discussed, you will simply be terrifying the people for nothing, you will simply be annoying the public who will be holding such meeting for nothing, by sending so many assistant sub-inspectors with constables. Sir, it is also known very well that although the term "assistant sub-inspector" has been brought into practice in a dignified form, still an assistant sub-inspector is nothing but the old head constable. Those head constables have been designated as assistant sub-inspectors. Though it sounds nicely, yet in point of education and in point of status they are the same old head constables and to send such men with a police force behind them to meetings held even in private places to report is certainly not desirable, because under the pretext of reporting, all sorts of abuse of power might be made. Therefore, Sir, if in this explanation the words I have suggested are inserted it will ease matters and will also ease the minds of the public from the anxiety of unnecessary interference with matters relating to social, religious and constitutional questions and I hope that this reasonable amendment will be accepted by the House.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to support the motion of my friend Dr. Ghose. The explanation is a dangerous provision and ought not to find a place in the Statute Book even for a day, not to speak of three years. The police have been authorised to enter into a private place notwithstanding that admission thereto is restricted by tickets. This is an encroachment on the elementary rights of the people. As the omission of the explanation has failed, I hope this very sensible and reasonable amendment of my friend, Dr. Ghose, namely, the insertion of "excepting on social, religious and constitutional question" after the word "meeting" ought to be accepted.

Mr. NARENDRA KUMAR BASU: Sir, I rise to support this amendment though I must confess I do so with considerable misgiving. My misgiving is principally due to the fact, as was stated by Mr. Reid in his reply to my speech, that he thinks that the District Magistrate will not be silly enough to send an assistant sub-inspector of police to report any private meeting and certainly not a meeting where social or religious questions are being considered—I am sure about constitutional questions. However, the fact of the matter which has escaped the notice of Mr. Reid is that the District Magistrate has got no previous information as to the kind of talk that is going on in these private places where the public or a class of public is admitted. The District

Magistrate has got to base his order to have a report upon any stray information given to him by a sub-inspector or somebody else whom he thinks he might place some reliance upon. Even if he may not find it necessary, he may all the same think it safer to report the proceedings of the meeting to find out whether the meeting is objectionable or not. Meetings for discussing social or religious or constitutional questions are liable to be invaded by these assistant sub-inspectors under this clause as it stands without the least justification and without any rhyme or reason. If any mistake is made it will perhaps be said that the District Magistrate was misinformed and so he sent emissaries. I do not think that simply because there is the civil disobedience movement any and every place should be intruded upon by the emissaries of the police department. I therefore beg to support the amendment.

Mr. R. N. REID: Sir, there is no intention that any and every meeting anywhere and everywhere should be intruded upon by the emissaries of the police. On the contrary the point of the clause is that where the District Magistrate has reason to believe that a meeting will be held at which things might be said or plans promulgated which are subversive of law and order, he should be entitled to have it reported. I do not admit that the District Magistrate would act under this clause unless he had some reasons to do so. I think, Sir, the very instance which Dr. Amulya Ratan Ghose quoted is a proof that some practical reason underlies this clause. The meeting which he quoted as having been prohibited was prohibited not because it was a meeting called to consider a matter of legislation, that is to say the Money-lenders Bill, but because there was good reason to believe, based on present information and also on past experience, that it might be diverted into something a great deal more dangerous and, as I said before, this clause is designed to meet the ingenuity of those who under the cloak of social, religious or constitutional meetings hold meetings which are entirely different in character, and which, as the whole Bill presupposes, are meetings in connection with some movement, such as the civil disobedience movement, which is subversive of law and order, and in order to meet that ingenuity this clause has been framed. I beg to oppose the motion.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. MUKUNDA BEHARY MULLICK: Sir, I beg to move that in the explanation to clause 8, in lines 3 to 6, the words "and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise" be omitted.

Sir, the aims and objects of the Bill seem to indicate that it is to authorise the Government to take proper action against any movement

subversive of law and order in reference to public security that this Bill is introduced. Now if a few persons meet in closed doors and any admission to it is restricted, it is designed by this explanation that this also is to be deemed a public meeting so that an assistant sub-inspector may get into the same. English dictionary has to be re-written to understand the meaning of the term "public". People who never desire to disturb any public peace have also to be netted out to bring them within the purview of this Bill. It is on this simple ground that I move that this clause in the explanation should be deleted.

4-15 p.m.

Mr. R. MAITI: Mr. President, Sir, I rise to support the motion of Mr. Mukunda Behary Mullick for the deletion of the latter portion of the explanation to clause 8. Its retention in the Bill clause will surely give a handle to the police for harassing people in their legitimate exercise of civic rights. Sir, the difficulty will arise with regard to the use of the words "private place", as in the Bill there is no definition of what is a private place. Private place may mean a private land accessible to the public or it may mean a private house. In case of the former there may not be much objection to the police being present there, but in the case of the latter there will be a good deal of objection to the unnecessary interference of the police, especially in view of the fact that admission of the public to the meeting held in a private house is restricted by ticket. Besides, Sir, it is quite obvious that the meeting loses the character of a public meeting when admission thereto is restricted by ticket or otherwise, and as such, it cannot be called a public meeting. That being so, you have no right to unnecessarily interfere with the meeting held in a private house.

Sir, sometimes people may assemble in a private house for various purposes, *e.g.*, for the discussion of social, religious and other perfectly legitimate problems. Certainly it is not the intention of the Government to keep watch over all sorts of public meetings even though held in a private house, so long as their objects are perfectly lawful and it is not very difficult for the authorities to get to know what sort of meeting is going to be held as it is generally the case that when public meetings are held anywhere, their objects are always declared beforehand by private notices or by beat of drums. You can only interfere with those meetings which are being held for furtherance of the civil disobedience movement or for any other unlawful object. But there is absolutely no justification for the police to be present at any public meeting which is being held for some strictly lawful purposes. Sir, interference by the police with a meeting held in a private house for lawful purposes will only create resentment and discontent in the minds of the people, as the people will consider that all their legitimate activities are being

stifled in every way. Sir, if this explanation to clause 8 is allowed to stand as it is, ample powers will no doubt be left in the hands of the police for harassing people in season and out of season under some pretext or other. Sir, in order to avoid all such troubles that may arise in future it is but just and proper that the explanation to clause 8 should be dropped altogether.

With these words I heartily support the motion so ably moved by my friend Mr. Mukunda Behary Mullick.

Mr. NARENDRA KUMAR BASU: I rise to support the amendment. The Explanation, even if these words are omitted, would still read thus: "For the purpose of this section a public meeting is any meeting which is open to the public or to any class or portion of the public." I have already submitted to the House that in my judgment these words are not necessary and should not be in the Bill at all, but the House has turned that down, and I bow to that decision. But the words that are now sought to be deleted are "and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise". I shall now ask the House to consider the question of the joint families of both Hindus and Muhammadans that are still existing in this country. It may be that the members of a joint family are considering some domestic or private problem and it may be that they have got some enemy outside that joint family or even inside it. It is also possible to consider that this enemy runs up to the police or the District Magistrate and says "well, here are some people holding a meeting for the purpose of discussing the civil disobedience movement" and the District Magistrate will no doubt, in order to find out whether the report is correct or not, forthwith depute an officer to go and enter into that meeting. Mr. Reid says that that is not the intention of Government. But, Sir, it is not the intention of Government that we have got to look to. We are concerned with the manner in which this provision will be actually worked in practice. I would ask Mr. Reid to put himself in the position of a District Magistrate (which he was, I am sure) and try to realise what orders he would pass if somebody otherwise respectable or whom he considers to be respectable, comes to him and says "Look here; about 15 or 20 people, or about half a dozen people are meeting in that house over there in order to consider the civil disobedience movement". Remember, Sir, this information need not be in writing. Remember, Sir, that the District Magistrate is not under these rules bound to record his reasons for deputing a police officer to attend this meeting. There is absolutely no safeguard anywhere. It may be that this enemy, when he is next met by the District Magistrate, will probably be rebuked by him for having given a wrong information, but the mischief has already been done; the policeman has

been allowed to intrude upon what is essentially a private discussion or a private meeting. I submit, therefore, that Government will be well advised in accepting this amendment.

Babu JITENDRALAL BANNERJEE: I beg to support the amendment of Mr. Mullick on the ground that it is eminently modest, reasonable and logical. After all, what does Government require? Government requires that adequate provision should be made for the purpose of reporting public meetings. For this purpose definition of public meeting is necessary. The first part of the Explanation defines a public meeting as a meeting which is open to the public or to any class or portion of the public, but the second part of the Explanation goes beyond that and says "a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise". I think the first portion of the Explanation is sufficient for all honest and legitimate Government and the retention of the second part does not at all strengthen the hands of Government; on the other hand, it gives room for a considerable amount of abuse, as has been pointed out by Mr. Narendra Kumar Basu and others. Sir, this House has been very forbearing so far as Government is concerned in its demand for extraordinary measures of legislation and we hope Government will be equally forbearing in its further demands and not exhaust the patience of the House.

Mr. R. N. REID: Sir, I must confess that at first sight this amendment, as Mr. Bannerjee has said, looks eminently moderate and useful, but the fact is that, as I said before, and as I must repeat at the risk of being tedious, this clause, as it stands, is designed to meet the misplaced ingenuity of those who pretend, under the cloak of a constitutional, social or a religious meeting, to hold a private meeting, but which actually is in furtherance of a movement subversive of law and order.

As regards the question of holding a meeting which may really be a public meeting but held in a private place, restriction of entry being by ticket and so on, experience—I am talking of something that I know of—has shown that the right of holding apparently private meetings has been abused in this very way and that is the reason why Government consider that they must oppose the amendment.

Mr. Basu asked me what I would do as a District Magistrate, supposing one of these assistant subinspectors of police came along and told me that there was a meeting of about 50 people assembled in a private place. I am not speaking for myself only, but I am speaking for any reasonable District Officer. He would first consider what the condition of the district or the town

was. If the civil disobedience or a similar movement was rampant there, then he would certainly think that it might be very necessary to have a report taken of the proceedings of that meeting. If he was not thus satisfied, he would tell him to go away and see what happened; or if he did not consider that his informant was thoroughly reliable or that he might be too illiterate to rely upon or that he might be a young officer who had perhaps got excited, he would try to get the opinion of somebody else; but I do not believe that he would proceed to act in a frantic hurry and send a sub-inspector of police with a posse of constables to the place where such a meeting was being held. I oppose the amendment, Sir.

The motion of Mr. Mukunda Behary Mullick was then put and lost.

Mr. PRESIDENT: The question is that clause 8 do stand part of the Bill.

The motion was put and agreed to.

[Clause 9 was omitted by the Select Committee.]

(At 4-25 p.m., the Council was adjourned for prayer, and it reassembled at 4-40 p.m.)

Clause 10.

Mr. PRESIDENT: The question is that clause 10 stand part of the Bill.

Maulvi HASSAN ALI: I beg to move that in clause 10 in line 7, for the word "more" the word "any" be substituted; and in lines 7 and 8, the words "than is necessary for such purpose" be omitted.

Sir, the gist of the clause is that any person disobeying or neglecting to comply with any order or direction or prescribed condition of the authority will be compelled by force to obey such order or direction. The refractory may be subjected to threat, coercion and even to belabouring with *lathies*, necessary to bring him to terms.

This sort of unbridled license in the hands of authorities is, to my mind, uncalled for and savage. This is, Sir, no law, but the very negation of anything like law. Supposing, Sir, under clause 4(*1*), an order is served that such and such person shall reside or remain in any prescribed area. If he chooses to disobey the order, how would you give effect to it? Would you tie him to a post like a dog and beat him? Anybody may choose to violate any order with legal consequences, and here the consequence is enacted in clause 11, that is to say, violation of orders will be punished with imprisonment.

Why then do you propose any bodily harm to a person disobeying any order? It is but human that you must not inflict any bodily injury in giving effect to any order.

With these few words, Sir, I commend my motion to the acceptance of the House.

Mr. R. N. REID: Sir, this amendment of my friend Maulvi Hassan Ali is clearly unacceptable. The words in the last two lines of the clause, namely, "but shall not in any case inflict more harm than is necessary for such purpose" were inserted by the Select Committee, and I think they go far enough in the way of safeguarding against undue abuse of power. To put it in the Act that "no harm whatever shall be inflicted" is simply not practical. If you have a person resisting an order which has been lawfully passed on him, it may be very often necessary to use some amount of force: if he resists, well, he may receive some injury. But to put it into the Act that he "shall not in any case inflict any harm....." is to my mind utterly impracticable, and I think the House will agree with this view. Sir, I beg to oppose the motion.

The motion of Maulvi Hassan Ali was put and lost.

Mr. PRESIDENT: The question is that clause 10 stand part of the Bill.

The motion was put and agreed to.

Clause 11.

Mr. PRESIDENT: The question is that clause 11 stand part of the Bill.

Babu KISHORI MOHAN CHAUDHURI: I beg to move that clause 11 be omitted.

Sir, provision has been made under clause 10 for using any amount of force for disobeying an order of the police. Under clause 11, one sort of punishment for disobeying order passed or direction given in accordance with the provisions of section 4, is imprisonment which may extend to two years and fine, but under clause 12, another sort of punishment is provided for practically the same nature of offence which is imprisonment for six months with fine. I am sorry, Sir, that clause 10, as it is in the Bill, has been accepted by the House. However, Sir, what I propose now is that at least different sorts of punishment for offences committed under clause 4 and other clauses of the Bill should not be adopted, as these offences are practically of the same nature.

What I submit, Sir, is that six months' imprisonment should be quite adequate for enforcing any order, and as there is the unlimited power of using any amount of force, I cannot understand why there should be two kinds of punishment in the case of prosecution for almost the same nature of offences. That would be very oppressive, Sir, and, I think, six months' imprisonment, as provided in clause 12, is quite sufficient. As you have armed yourself with unlimited powers, I think Government should not be anxious to have more powers under the provisions of this Bill. What I mean to say is that when an unpleasant thing is to be done, it should be done with much moderation as possible. If you arm the police, who will put into actual operation the provisions of this Bill when it is passed into an Act, with unlimited powers, we do not know what oppression will be done in the name of law and order, and how the life of innocent persons in many cases will then become intolerable.

Sir, you are realizing fines for quartering troops in the midst of civil population; you are awarding heavy punishment by prosecuting persons under special repressive Acts; you are making the guardians of convicted young men liable to punishment under the rules made under the Suppression of Terrorist Outrages Act. Under such repressive measures, nobody is safe in going outside, and nobody is safe even in his own house. However, Sir, my submission is that these laws should not at least be a source of great harassment to the public, and that there is, therefore, no special necessity for retaining this clause.

With these words, Sir, I move that clause 11 be omitted.

Mr. B. C. CHATTERJEE: I must say that the hon'ble mover of this amendment and those who have gone before him and those who will come after him are showing a very great misunderstanding of the real position that confronts us. Our friends must remember that the Government of Bengal is merely an agency on behalf of the Home Government, and it is quite clear that we are going to have launched on us a new Imperialism, if I may say so. We ought to remember that when the British first came here they asked for our help: they asked for the help of the high-caste Hindus. Muhammadan gentlemen were then eclipsed: the so-called depressed classes were quite happy when they got law and order. The Muhammadans very naturally boycotted English education and everything English, and the Hindus had it all open to them. The English asked the Hindus to help them to carry on the Government and loaded them with honours and riches. As time went on and British Imperialism and British trade spread all over India the Hindus flourished. But, Sir, as you know, unfortunately, the British made one little mistake, for they gave the Hindu English education and brought him into contact with English civilization. The greater mistake, however, that the English made was that they actually

told the Hindus—"if you want to get into the higher services and all that, you must come all the way to England and beat us in open competition". The result was that the Hindus discovered that they were as good an intelligent people as the English themselves, and they refused to be governed by the British. They say—"we want to govern ourselves". Then we have the Congress and its aftermath including its latest manifestation in the shape of civil disobedience movement.

Lord Morley said at the beginning of the 20th century—"there is one thing that has never broken down and that is British statesmanship"; the British statemanship, however, has now addressed itself in the task of so ordering affairs in India that the educated Hindus shall be permanently put down. How they are going to do that in Bengal? Sir, they are going to do that by the minority pact. Although my friend Mr. Prentice may not be here in the next reformed regime, but perhaps Mr. Thompson will be here and be must have the Muhammadans and the depressed class Hindus with him. He will make it as easy for them as possible: they will be given jobs although they may not have the requisite qualifications. Already we are hearing the expression "minimum qualification". It would not be necessary for them to pass the Indian Civil Service examination or to go to Oxford or Cambridge and such other places and compete with the Englishmen. They will get jobs here on much easier terms than the Hindus.

5 p.m.

I have no doubt about the business genius of the Calcutta business community. Well, there is some method by which they will be able to supplant old Hindu *banians* and the growingly disloyal Marwari *banians* by depressed class *banians* and Muhammadan *banians*, so that British goods will be sold amongst the Muhammadans and the depressed class Hindus; and from the customers point of view they are the people that matter. Very well, Sir, if this is to be done then this can only be done by Mr. Thompson by being able to keep his two hands from these two sister communities—the depressed class Hindu on the one hand and the Muhammadan on the other, and in order to do that he must be armed with powers like these which Mr. Prentice's Bill proposes. How are you going to keep the Hindus down? My friend Mr. Thompson cannot function at all unless he has a legislation of this description and that this legislation will go through quite easily is quite clear because my depressed class brothers and my Muhammadan brothers are always going to the lobby against us in favour of Mr. Prentice's Bill. That is a fair earnest of what is going to happen when the Hindus come under the new Government. Mr. Prentice is going to see that the machinery of Government under the new regime runs as much smoothly as it is doing under him and only to do this he has brought in a Bill like this. It is a threat to the Hindus that if you continue in your present mood, if you

want to govern the country to the exclusion of the British power or British aid you go to jails under these various Acts with which we are arming the future Government of Bengal. Naturally this business-like imperialism will keep the British in power whether the British be represented by Mr. Prentice or by Mr. Thompson it is the same thing. The Government in which Mr. Thompson is going to function will go on for another century with the ease and smoothness with which the high caste Hindus carried it on for 50 years. The distance has been travelled so far very very cleverly and I admire them for it from the bottom of my heart. My Muhammadan friends have now got the choice of becoming troublesome by coming to positions of influence either through the same privileges which were thrown open to us or by going to England and competing with the Englishmen in Oxford and Cambridge and not by competing with the Hindus in getting into jails which is a dangerous thing. I think that if we are sympathetic to this new imperialism or to the new policy of which Mr. Prentice is the principal protagonist we ought to keep ourselves quiet and let this legislation pass so that Mr. Thompson may carry on without any difficulty.

Mr. SHANTI SHEKHARESWAR RAY: I support Babu Kishori Mohan Chaudhuri. I think this is one of the most objectionable clauses in the Bill, if one can make a choice from one clause to another in this thoroughly unreasonable measure. If I had any hope that the Government would meet any reasonable suggestion from this side I would have been inclined to support some other amendment that has been tabled on this clause.

Mr. PRESIDENT: But what about this amendment?

Mr. SHANTI SHEKHARESWAR RAY: I would have been inclined to support but as I know that though Mr. Reid is the spokesman here the Hon'ble Mr. Prentice is calling the tune, and so when we were considering the Bengal Terrorists Bill a couple of months ago we were disposed to place our arguments before the House with the hope that we should be able to convince the Hon'ble Member in charge of the Bill to accept some of our suggestions, and I am glad to say that some of our suggestions, however unimportant, were accepted on that occasion. But on this occasion, though we spent six hours on a debate over this Bill, the Government has not accepted a single amendment or a single suggestion from this side of the House. With this impression I am disposed to support the amendment of Babu Kishori Mohan Chaudhuri to throw out the whole clause altogether. I shall not go into the argument of Mr. B. C. Chatterjee as to whether the measure is a part of the imperialistic policy or not. He has dwelt at length on various topics but I would like to point out that this measure

will apply to all persons in Bengal and so the opposition to this should come from every patriotic son of Bengal, whether he is a Moslem or a Hindu or a Christian. This punishment is intended against those who disobey the order made under section 4. Under section 4 the Government practically throws out a challenge to all self-respecting people in this province. They may issue any order and everybody must obey it or if they do not obey, here is a provision to send them to jail. This is a nice way of getting people into jail. People may not be inclined to take to violence, people may not be inclined to associate with objectionable movements, but if some local officer of the Government is displeased with somebody in the district he can easily get him into trouble by issuing an order which that man may find it impossible or derogatory to his self-respect to obey. I can cite instances where this has been actually done. Sometimes orders are issued to persons to report themselves to a police-station. That is a very highly objectionable practice and men with self-respect would naturally disobey such orders and under the garb of securing security or contentment in the district Government can easily bring these high-souled persons into the jail. I hope the House will not place such a measure of repression and oppression in the hands of the Government.

Mr. R. N. REID: The member who has last spoken made a comparison between me as the mouthpiece of the Hon'ble Member as he was pleased to term me and myself when I introduced the Suppression of the Terrorist Bill at the last session. In the first place I may be the mouthpiece but I am a mouthpiece which entirely agrees with what may be held to be put into its mouth. As a matter of fact in dealing with the other Bill the member referred to a great many concessions which were made and which I infer gave him a certain amount of satisfaction. The difference between that Bill and the present one is that in the former there was a good deal of matter which Government held that they could very easily drop and they yielded because there was stuff in that Bill which could be dropped and it was dropped. In the present Bill, in order to reduce its bulk and in order to make it perfectly clear, Government put nothing in this Bill which they did not think to be absolutely necessary for the purpose of this Bill; it was reduced to a minimum and that is the reason why it is not possible to make the gestures which the member referred to with so much satisfaction. There is nothing else in it whatsoever.

As regards this particular clause, it is a little difficult to come back to this clause after the entertaining excursions to which we have listened into the realms of the future constitution. I think the mover's intention is, if I have understood him correctly, that this clause should be deleted and the punishment for any offence of disobedience of any order under this Bill should be merely punishable under clause 12, that is to say, the maximum punishment should be six months. The

point, however, in differentiating the punishment for disobedience of an order under section 4 from the punishment for disobedience of an order given under the remainder of the chapter is that clause 4 is intended to, as its sub-title indicates, give power to control suspected persons. This was used under the Ordinance to prevent action on the part of persons who, there was good reason to believe, were engaged in furtherance of the commission of offences subversive of law and order. Obviously this clause is not intended to be used and in fact it has not been used against any and every body but it is intended to be used against any person who has power to stir up trouble wherever it pleases him. For that reason it has been held necessary to impose a heavier penalty for disobedience of order passed under section 4 and for disobedience of minor offences by the remaining clauses of this Bill. As a matter of fact I was going to wait for the moving of amendment No. 44 which would substitute the words "one year" for "two years" and to accept that amendment and I thought perhaps if that amendment was accepted it might induce some of the other members to withdraw their amendments.

Mr. SHANTI SHEKHARESWAR RAY: That is something.

Mr. NARENDRA KUMAR BASU: We are thankful for small mercies.

Mr. SHANTI SHEKHARESWAR RAY: I think my speech has proved effective.

Mr. R. N. REID: I have listened to the remarks from the other side with great satisfaction. With these words I beg to oppose the amendment.

The motion of Babu Kishori Mohan Chaudhuri was put and lost.

The following motion was called but not moved:—

Mr. P. BANERJI to move that in clause 11, in lines 3 to 5, for the words "with imprisonment which may extend to two years or with fine or with both" the words "with fine not exceeding rupees ten" be substituted.

Khan Bahadur Maulvi AZIZUL HAQUE: May I have your permission to move the amendment (No. 44) which stands in the name of Maulvi Abdul Karim?

Mr. PRESIDENT: Yes, you have my permission.

Khan Sahadur Maulvi AZIZUL HAQUE: I beg to move that in clause 11, in line 4, for the words "two years" the words "one year" be substituted.

Mr. R. N. REID: Government are prepared to accept that amendment.

The motion was put and agreed to.

The following motions failed:—

Maulvi HASSAN ALI to move that in clause 11, in line 4, for the words "two years" the words "six months" be substituted.

Dr. AMULYA RATAN GHOSE to move that in clause 11, in line 4, for the words "two years" the words "two months" be substituted.

The following motion was called but not moved:—

Dr. AMULYA RATAN GHOSE to move that in clause 11, in line 5, after the word "fine" the words "not exceeding rupees twenty" be inserted.

5-15 p.m.

Mr. PRESIDENT: The question is that clause 11 as amended stand part of the Bill.

The motion was put and agreed to.

Clause 12.

Mr. PRESIDENT: The question is that clause 12 stand part of the Bill.

The following motion was called but not moved:—

Dr. AMULYA RATAN GHOSE to move that in clause 12, in line 7, for the word "six" the word "two" be substituted.

The following motion failed:—

Babu KISHORI MOHAN CHAUDHURI to move that in clause 12, in line 1, the words and figures "Subject to the provisions of section 11" be omitted.

Maulvi HASSAN ALI: Sir, I beg to move that in clause 12, in line 7, for the words "six months" the words "six weeks" be substituted.

Sir, in view of the fact that for violation of orders under section 4 a punishment of imprisonment for one year has been accepted by the House, I submit that there is no reason why the House will not accept my proposal for providing a punishment of six weeks' imprisonment instead of six months for offences contemplated under any other order than orders under section 4.

Mr. R. N. REID: Sir, I do not think that this question of punishment that should be imposed under clause 12 can be treated merely on arithmetical grounds, as the mover of this amendment seems to think. He thinks that because an amendment has been accepted to reduce the punishment under clause 11 by one-half, therefore that under clause 12 should be reduced by one-fourth. He seems to have gone beyond what even arithmetic justifies. However, I would point out that six months is the maximum and it is quite a reasonable punishment and is not likely to be inflicted in every case. I think we should leave it at six months, which was accepted by the Select Committee, instead of tying the hands of the judiciary by reducing it to one-fourth.

The motion of Maulvi Hassan Ali was put and lost.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 12, in line 7, after the word "fine" the words "not exceeding rupees ten" be inserted. Sir, in the Bill it is not mentioned how much fine should be imposed and it is not desirable that in such cases very heavy fines should be imposed upon the accused persons. Moreover, as these cases generally go undefended it will be highly detrimental to the interest of those undefended accused to be punished with the imposition of any fine that the magistrate may desire. That will be a very serious thing. Therefore I want to propose that if such guilty persons are to be fined, the fine should not exceed rupees ten.

Mr. R. N. REID: Sir, if the mover of this amendment had put in a reasonable figure in his amendment, it might have been easy to accept it, but I venture to think that to make the maximum fine to be imposed under this clause rupees ten is really rather ridiculous. In any case it is usual for the magistracy to make the punishment fit the crime and not to impose a fine heavier than what the circumstances of the offence and the evidence in the case would justify. I beg to oppose the motion.

The motion of Dr. Amulya Ratan Ghose was then put and lost.

Mr. PRESIDENT: The question is that clause 12 stand part of the Bill.

The motion was put and agreed to.

Clause 13.

Mr. PRESIDENT: The question is that clause 13 stand part of the Bill.

The following motion was called but not moved:—

Rai Bahadur Dr. HARIDHAN DUTT to move that in clause 13 (*1*), in line 2, after the words "District Magistrate" the words "or any subdivisional magistrate" be inserted.

Babu KISHORI MOHAN CHAUDHURI: Sir, I beg to move that clause 13(*2*) be omitted. My idea is that a power like this should be exercised by the District Magistrate himself and not by any police officer or even the subdivisional officer. I think sub-clause (*2*) is not necessary, so I beg to move that it be omitted.

Mr. R. N. REID: Sir, as I understand the mover of this amendment, his purpose is to amend sub-clause (*2*) of clause 13 so that the powers which are given by certain sections of chapter I to the District Magistrate shall be exercised by that officer only and he does not want that the Local Government should delegate that power to any other officer. I think it will be agreed that it is not really a practical proposition to confine those powers to the District Magistrate and, secondly, that it is perfectly reasonable to delegate those powers to certain officers of a superior type. The powers under clauses 5, 6, 7 and 8, namely, controlling of traffic and so on, and prohibiting access to certain places, cannot obviously in a Bengal district, which sometimes cover 5,000 square miles, be exercised by the District Magistrate himself. This is not a matter of practical politics and I hope the House will not accept it.

The motion of Babu Kishori Mohan Chaudhuri was put and lost.

Mr. P. BANERJI: Sir, I beg to move that in clause 13(*2*), in lines 2 and 3, the words "or any police officer not below the rank of Deputy Superintendent" be omitted.

Sir, I should like to hear what Mr. Reid says in reply to this point. While speaking on similar motions Mr. Reid suggested that the intention of Government was to give power to the District Magistrate because every District Magistrate uses his discretion, and his power will not be abused in the hands of the police and the district officers will use their powers with reasonable discretion. Here, Sir, the magistrate has been given power, and as a matter of convenience it has been considered necessary to delegate the power to the subdivisional officer. Then

there is another clause, I mean sub-clause (*3*) under which the District Magistrate may, by order in writing, authorise any gazetted officer to exercise any of the powers. Now, Sir, delegation of power to the police is very much resented by the people as they think that the power will be abused by them. It may be argued by Mr. Reid that Government have not given the power to an ordinary constable or sub-inspector or inspector but that they have given the power to a deputy superintendent of police. I say, Sir, he is still a police officer. He may have begun as a sub-inspector of police, though not always I say, but invariably I find that by promotion even a constable can become a deputy superintendent. There are actually such cases and Mr. Prentice cannot deny that. Therefore I would request that in this particular case when the police to-day stands so much disgraced and people do not like them and when it is the intention of Government that innocent people should not suffer, such power should not be given to a deputy superintendent of police. If the clause remains as it is it stands to reason that the deputy superintendent will order somebody else and the law will be abused. Therefore I hope Mr. Reid will accept this most reasonable amendment.

Dr. NARESH CHANDRA SEN GUPTA: Sir, my friend Mr. P. Banerji seems to be straining at a gnat after swallowing whole camels. After all the clauses that have been passed, this seems to be almost a trivial amendment. The arguments used by Mr. Reid against the motion moved by Babu Kishori Mohan Chaudhuri would justify the delegation of powers not merely to deupty superintendents of police but also to sub-inspectors of police, and why not presidents of *panchayats* also or presidents of union boards also, because even deputy superintendents of police are not available at every area within a subdivision. Therefore it is practically impossible for him to regulate the traffic or access to buildings in some remote village within his jurisdiction. If Mr. Reid's argument is correct then this clause for delegation of power to police officers not below the rank of a deputy superintendent is wholly inadequate for its purpose and would not take him very far. If that is so, I do not see any reason why he should not be willing to concede this litle gnat to my friend. But possibly I forget the next clause, I mean sub-clause (*3*) which gives the District Magistrate power to authorise any gazetted officer.

With regard to this clause Mr. Reid appealed to the maxim *delegatus non potest delegare* as standing in the way of the District Magistrate delegating any of the powers which were given him under clause 1. I am afraid that he was wrong in his appreciation of that maxim as well as in its application. On my reading of the clause I think the clause as it stands enables the District Magistrate to delegate his power to other gazetted officers. So, even if my friend Mr. Banerji gains his object in removing police officers not below the rank of a

deputy superintendent of police from clause 2, the deputy superintendent could come by the back door through clause 3, unless clause 3 itself is amended. So from that point of view also I think Mr. Reid might just well accept the motion because he loses nothing.

Mr. NARENDRA KUMAR BASU: I beg to support this amendment. As will be in the recollection of members of the House, when I moved for the deletion of clause 8 as well as certain amendments to it, it was pointed out that if entry to such meetings at a private place were restricted only to the superintendent of police, it would cause great inconvenience. It was also pointed out on behalf of Government that probably the District Magistrate would not be obtuse enough to swallow any and every report that was made to him of any such meeting and that he would not allow any ordinary policeman to intrude into any such meeting, but from what I know of the policemen in Bengal—I know that it is an estimable body of men, and I am not casting any reflection upon them—but from the nature of their duties, they have got to rely upon their so-called informants and informers more than is necessary for a District Magistrate to do so. I would, therefore, not like that any police officer, be he of the rank of a deputy superintendent of police, or superintendent of police, should have the power to order, under clause 8, the entry and intrusion of an assistant sub-inspector of police into what may after all be a private meeting.

(At 5-37 p.m. the Council was adjourned for prayers and it reassembled at 5-50 p.m.)

Maulvi HASSAN ALI: Mr. President, Sir, I beg to move that in clause 13(2), in line 3, the word "deputy" be omitted.

To give such powers as are contemplated under the provisions of this Bill to a police officer would be resented by the public and there is no doubt about it but it would be much more resented when such powers are given to any police officer of inferior rank. I propose to make a sort of compromise and therefore suggest that such powers should be given to a police officer not below the rank of a superintendent of police.

Mr. R. N. REID: Sir, we are taking two amendments, I think, Nos. 55 and 56. No. 55 is that of Mr. Banerji to omit the words "or any police officer not below the rank of deputy superintendent," and *more suo* uses this amendment as a peg on which he has to hang an attack on the police—an attack on what a great many of us or most of us consider a very fine body of men. He seems to think that because some deputy superintendents of police have by exceptional merit risen from an inferior rank—the case of a constable rising to such a distinguished post was mentioned, I think—that such an officer would

have no more high ideals, no more honesty and no more sense of honour than the lowest of the low. I deny, Sir, that even a constable has no ideas of honour and honesty and I certainly deny that the district superintendent of police is tarred with any brush of this sort. As has been pointed out by one speaker there is a certain amount of moderation in this sub-clause. Government have confined the power of delegation under this sub-clause to any police officer not below the rank of a deputy superintendent, which shows that Government intend to confine the use of this power within very narrow limits and I think those limits are very reasonable limits. To leave out that altogether is not reasonable.

As for the other amendment which would delegate the power only to the superintendent of police, in view of the fact that the deputy superintendent is a high grade police officer and a very well conducted grade of police officer, I do not think that the amendment should be accepted. I beg to oppose both the amendments.

The motion of Mr. P. Banerji was put and lost.

The motion of Maulvi Hassan Ali was then put and lost.

The following motions were called but not moved:—

Rai Bahadur Dr. HARIDHAN DUTT to move that clause 13 (*3*) be omitted.

Mr. P. BANERJI to move that in clause 13 (*3*), in line 2, after the word "gazetted" the word "judicial" be inserted.

Maulvi HASSAN ALI to move that in clause 13 (*3*), in line 2, after the word "officer" the words "drawing a salary of rupees one hundred or upwards" be inserted.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 13(*3*), in line 3, after the words "under this chapter" the words "except the powers delegated to him under sub-section (*1*)" be inserted.

I hope Mr. Reid will see his way to accept this amendment, because it follows directly from what he told the House was the Government's view, the night before last. But if the maxim *delegata potestas non potest delegari* has any application to section 13, then I submit that to make that point abundantly clear to the officers of Government, Government ought to accept this amendment.

Dr. NARESH CHANDRA SEN GUPTA: I beg to support this amendment. Mr. Basu has said that Mr. Reid himself suggested that the powers under clause (*1*) cannot be re-delegated. If he relied upon the maxim *delegata potestas non potest delegari*, that is extremely doubtful, because that maxim applies only to cases where the statute

does not expressly give the authority to delegate. A trustee, for instance, cannot delegate powers under the trust, but if the law of trust gives him this power to delegate he can do so. Therefore the question is not at all free from doubt, to say the least of it, and, therefore, there ought to be no objection whatsoever, having regard to the express—

Mr. R. N. REID: May I interrupt, Sir? I stand by what I said about that juristic maxim *delegata potestas non potest delegari* and I think we can find no objection to accepting this motion; but I would suggest that it is really painting the lily, for it does not add anything. I accept the amendment, Sir.

The motion of Mr. Narendra Kumar Basu was put and agreed to.

Mr. PRESIDENT: The question is that clause 13 as amended stand part of the Bill.

The motion was put and agreed to.

Clause 14.

The following motion was called but not moved: —

Rai Bahadur Dr. HARIDHAN DUTT to move that in clause 14, in line 3, for the word "four" the word "seven" be substituted.

Mr. PRESIDENT: The question is that clause 14 stand part of the Bill.

The motion was put and agreed to.

Clauses 15 and 16.

Mr. PRESIDENT: The question is that clauses 15 and 16 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 15 be omitted.

Mr. President, Sir, I want Government to be honest by omitting this section. Sir, we in Bengal have a saying, or rather a term, namely,

a fly-killing clerk, which means that when a clerk who is too conscientious, and who has got to make a copy of a document, finds that there is a dead fly on the original document he must in his copy also make a copy of a dead fly. That is what the Government of Bengal have been doing in carrying out a copy of Ordinance X of 1932 (Special Powers Ordinance) of clause 37 of which this clause is a copy. But they have forgotten that under that Ordinance there are various offences which may be punishable with penalties more severe than what a first class magistrate can inflict, but under this Bill the only penal clauses are clauses 11, 12 and 24 and the punishment under section 11 is one year now, under section 12 six months and under section 24 also six months. Therefore to give power under section 15 to special magistrates to try offences other than offences punishable with death in this Bill, which is only limited in its application to offences against public security, is, I submit, on a par with the action of the fly-killing clerk. In a previous speech Mr. Reid pointed out that they would exercise extreme moderation in making police officers not below the rank of Superintendents, the persons whom the local Government may invest with certain powers. But Mr. Reid has forgotten that that was also in the Special Powers Ordinance and that the moderation, if any, was not of this Government: they were simply carrying out the orders of the Central Government. However, in carrying out these orders in proposing the re-enactment of section 15 they are going to do something which is absolutely unnecessary. Of course, if the local Government's intention is that under the garb of this Bill, when it becomes an Act, they will have people tried for other offences also under the procedure laid down in Chapter III hereof, that is another matter. If they want that, let them say so, but what is the use of a provision of this description in a Bill where offences are punishable for the maximum period of one year's imprisonment only and for six months? I think, therefore, Government will be well advised to omit sections 15, 17 and 18.

Mr. R. N. REID: I think the amendment moved by Mr. Basu has a close connection with his other amendment (No. 71), by which he proposes to omit the words "or was committed in furtherance of a movement prejudicial to the public security," or in other words the provision under clause 19 (*1*), by which a special magistrate is proposed to be empowered with the powers to try offences punishable under the Indian Penal Code as well as those which are made offences punishable under this Bill. He also recited the smallness of the penalty attached to this clause but he forgot that there might be offences committed in furtherance of a movement prejudicial to the public security and which are punishable under the Indian Penal Code, and it would be necessary to give a special magistrate powers to try such cases and thereby ensure a special and expeditious procedure. That is the answer to the proposal to omit this clause. On behalf of Government, Sir, I must oppose it.

The motion of Mr. Narendra Kumar Basu was put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kisheri Mohan.
Faziullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemeni.
Roy, Babu Haribansa.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Faweus, Mr. L. R.
Gangali, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. G. C.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Leesen, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Srie Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Peirs, Mr. S. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. C. R.
Rahman, Mr. A. F. M. Abdur.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Mr. K. S.
Reid, Mr. R. N.
Ross, Mr. J.
Ray, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijay Prasad Singh.
Sahana, Babu Satya Kinkar
Sarker, Rai Sahib Rabati Mohan.
Sen, Mr. B. R.
Sen, Rai Sahib Akshoy Kumar.
Thompson, Mr. W. H.
Townend, Mr. N. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.

The Ayes being 21 and the Noes 51, the motion was lost.

Mr. PRESIDENT: The question is that clauses 15 and 16 stand part of the Bill.

The motion was put and agreed to.

Clause 17.

Mr. PRESIDENT: The question is that clause 17 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 17 be omitted.

Sir, my ground for doing so is that we ought not to have legislation by the back door. In all previous cases, we have had an enumeration of the offences which a special magistrate has been empowered to try under those Acts or even under Ordinances: but here we are asked to legislate and to give power to a special magistrate to pass any sentence authorised by law, except sentence of death or of transportation or imprisonment exceeding seven years, without specifying the offences which the special magistrate may try. It has been pointed out during the course of the previous amendment that the words "or was committed in furtherance of a movement prejudicial to the public security" would include offences coming under the penal provisions relating to offences which are punishable not with death but with transportation and with imprisonment exceeding seven years. I submit, Sir, that is a sort of legislation which is neither honest nor fair. If you give a blank cheque like that to a special magistrate, and give him power subject to the direction of the district magistrate to try any offences which you may say are committed in furtherance of a movement prejudicial to public security, we may as well abolish all provisions of the Criminal Procedure Code as well as abolish different grades of courts. Why have the High Court, the court of sessions, and the court of magistrates? Why have you them all, if by a legislation of this description a special magistrate is allowed to try any case and to pass any sentence excepting a sentence of death or transportation or of imprisonment exceeding seven years? I submit, as I have already said, that legislation by the back door like this is neither honest nor fair to the country, and for this reason this clause ought to be omitted.

Dr. NARESH CHANDRA SEN GUPTA: I entirely support this proposal. The special magistrate, we are now told, is not to try merely offences punishable under this Act, but also any offence under any law which is committed "in furtherance of a movement prejudicial to public safety." Sir, these words are as vague as they could be. A murderer generally acts in furtherance of a movement prejudicial to public safety. But leaving that case aside, there may be very small movements which may be regarded as prejudicial to public safety, everything like that is prejudicial to public safety, and, therefore, every offence that is committed in this country might possibly be brought under it. But I suppose I shall be told that it is a perfectly unsafe provision, and no person would really be tried by a special magistrate for an offence which is not really connected with some widespread movement prejudicial to public safety. But, unfortunately, it is not open to anybody to effectively question the authority of the special magistrate to try any offence, and if that contention of mine is correct, then the powers given

to the special magistrate under clause 17 would be absolutely preposterous. The reason why I say that there is no effective means to guaranteeing that no person shall be tried under clause 19 for an offence which is not really the result of a subversive movement, is sub-clause 2. I shall deal with that later on when we come to the amendments relating to sub-section (2). That sub-section shows that a person may be put on his trial for an offence alleged to be committed in furtherance of a subversive movement, and he may be ultimately found to be guilty of a very trivial offence which has no connection whatsoever with any subversive movement, but then he cannot complain, and the special magistrate's order remains binding all the same.

Well, I am not talking about imaginary things. Such a thing happened recently: a man was convicted by a special magistrate of an offence under the Arms Act which was found to be not connected with any subversive movement at all. Upon that finding, the High Court refused to reverse the conviction by the special magistrate. It was only a case of revolver theft, I believe; nevertheless a special magistrate tried and convicted him and that conviction was upheld.

6-15 p.m.

That position is still further strengthened by section 19. If that is the position there is no offence in the country which the District Magistrate or the superintendent of police or anybody else could not bring within the cognizance of the special magistrate. That means practical abolition of the Sessions Courts in the country. As Mr. Narendra Kumar Basu pointed out that this is really legislation by the back door.

But perhaps all this is beside the point, because we are really at cross purpose although we profess to aim the same end. It is not the object of the Government, as we assume it is, by this clause to provide for the least inconvenience or danger to the public but their object is to provide for the maximum of inconvenience and danger to people by taking in their hands powers which they can utilise to the utmost causing any amount of inconvenience and danger to the public. If that is the real object, and nothing short of that justifies drastic proposals like this, then I have nothing to say against them. On the other hand as this amendment assumes that it is to take just so much power as is absolutely necessary, I submit that this clause is unnecessary. Nothing has happened in this country as yet which justifies the abolition—the practical abolition—of the courts merely because the offences are supposed to be or believed to be at the start offences associated with a subversive movement. Therefore there is no occasion for Government to take in their hands powers of such a drastic character. The Legislative Council is not going to be abolished. The power of making Ordinances is going to be there. If any occasion arises and if the

Government thinks that the present powers are insufficient for the purpose they can come forward with further legislation but at the present moment there is absolutely no justification to pass summary judgment against the court of law.

Mr. R. N. REID: I must confess that I fail to see how it can fairly be said that this clause is legislation by the back door. The justification for this clause is as for the other clauses; it is intended not to meet present conditions, not to harass the ordinary public, not to abolish the ordinary courts, it is intended to meet a possible emergency. It is intended to be kept in reserve for use supposing another such emergency as we have had experience of arises (and possibly it will arise) in the future. It has been proved in the past that the ordinary law is not sufficient to meet certain movements which have arisen in subversion of law and order and to meet such a movement special measures are necessary. This is one of them. Part of this measure is meant to utilise special courts in order to expedite trial of cases and generally to make it more difficult for the persons who are attempting to subvert law and order to escape justice. For that reason I am quite unable to appreciate the attitude taken by the last speaker who implied that this was merely a dodge on the part of a callous Government to harass ordinary citizens. Nothing of the sort. It is not intended to harass the ordinary citizen, it is merely and definitely intended to harass a person who is attempting to subvert law and order and to make the life of an ordinary citizen a burden to him as indeed we know it has been made in the past. It will not be denied that in the last two years various persons have succeeded in making the life of the ordinary citizen miserable. With these words I oppose the motion.

The motion of Mr. Narendra Kumar Basu was put and lost.

The following motion was called but not moved:—

Rai Bahadur Dr. HARIDHAN DUTT and Maulvi HASSAN ALI to move that in clause 17, in line 3, for the word "seven" the word "five" be substituted.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 17, in line 3, for the word "seven" the word "three" be substituted. The special magistrates will have the power to pass any sentence authorised by law except the sentence of death or transportation or imprisonment exceeding seven years. Instead of the word "seven" I want to insert "three" years. Seven years would be a very long term and particularly while tackling cases of civil disobedience I do not think that such a long term of imprisonment will be necessary. I think the members of this House ought to remember that this Bill contemplates to take action against civil disobedience prisoners and not against terrorists

or some such body or individual of violent methods of action. Therefore in such a matter if the period of sentence is confined to three years that will be more reasonable and I think that will also serve the purpose of the Government. It is not necessary at all that imprisonment exceeding seven years should be enacted for purposes of tackling with this kind of prisoners.

Mr. R. N. REID: I have listened in vain to the last speaker's remarks for any real reason why the word "three" should be substituted for the word "seven". Experience has shown that during the last civil disobedience movement serious offences have been committed, arson has been committed and serious riots accompanied with hurt and murder also took place and it is conceivable that such offences would be committed for which the punishment of three years would not be suitable. Also the maximum punishment is seven years and not a fixed sentence. It is within the discretion of the court to assign any punishment it likes. I think it is not reasonable to reduce the maximum sentence which may be imposed from seven to three years. I beg to oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question before the House is that clause 17 stand part of the Bill.

The motion was put and agreed to.

Clause 18.

Mr. PRESIDENT: The question before the House is that clause 18 do stand part of the Bill.

The following motions were called but not moved:—

Mr. NARENDRA KUMAR BASU to move that clause 18 be omitted.

Rai Bahadur Dr. HARIDHAN DUTT to move that in clause 18 (*1*), in lines 1 and 2, the words "in a case tried outside the limits of the Presidency town of Calcutta" be omitted, and in line 5 for the words "of session" the words "where appeals ordinarily lie" be substituted.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 18 (*1*), in line 4, for the word "four" the word "three" be substituted.

Where a special magistrate in a case tried outside the limits of the Presidency town of Calcutta passes a sentence of imprisonment for a term not exceeding four years, or of fine, an appeal shall lie to the Court of Session. I suggest that instead of the word "four" the word "three"

should be substituted and the reason for this is obvious. I think even in the Criminal Procedure Code this period of four years is not to be found. If three years' time is allowed for an appeal I think that will be quite sufficient.

Mr. NARENDRA KUMAR BASU: I beg to oppose this amendment. Dr. Amulya Ratan Ghose is trying to curtail the right of appeal of a prisoner who has been sentenced to four years' imprisonment. I do not see any reason why when Government wants to give them the right of appeal we should take it away. I oppose the amendment.

Dr. AMULYA RATAN GHOSE: I beg leave to withdraw the amendment.

The motion was then, by leave of the Council, withdrawn.

Mr. PRESIDENT: The question before the House is that clause 18 stand part of the Bill.

The motion was put and agreed to.

Clause 19.

Mr. PRESIDENT: The question before the House is that clause 19 do stand part of the Bill.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 19 (*1*), in lines 3 and 4, the words "or was committed in furtherance of a movement prejudicial to the public security" be omitted.

Mr. Reid has objected to my using the expression "legislation by the back door" but he has in connection with another amendment suggested that by this Bill they are taking powers for the special magistrate to try serious offences, for example rioting which is sometimes accompanied by murder. I submit if that is the intention it ought to be expressed in a Bill brought in for the purpose and that Government should lay their cards on the table. We find in the Statement of Objects and Reasons of this Bill that there is a possibility that activities in furtherance of the movement known as the "civil disobedience movement" will continue, or that other such subversive movements may in the future arise, so it is necessary for the Local Government to take special powers to enable it in case of emergency to combat activities which are subversive of law and order or prejudicial to the public security and for the suppression of which the ordinary powers of Government are inadequate. I submit that that does not mean that for every offence under the Sun this Bill would be operative. It may be said of any offence under the Penal Code or of any

other penal enactment that it is committed in furtherance of a movement prejudicial to the public security. There is no definition of what public security is; probably it will mean the same thing as public tranquillity or public safety and excepting one or two very small minor personal offences, all offences under any law whatsoever may be said to be comprehended in the words that I want to omit from this section. I submit that this is really asking for a blank cheque from the legislature asking that the ordinary courts should suspend their function.

6-30 p.m.

By sub-clause (2) of this clause it is intended that the question whether a particular offence was or was not committed in furtherance of a movement prejudicial to the public security is to be decided by the District Magistrate alone and his orders shall be final. I do not know whether that sub-clause is *intra vires* of this legislation. That is a question to be decided afterwards if Government wants to retain these words. The intention of Government in bringing forward this clause is clear. They want to rope in as many offences as possible under this Bill and have them tried under the Special Powers Ordinance with as little judicial interference as possible.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I heartily support this amendment. I am grateful to Mr. Reid for his frank confession. He admits that this clause is not needed for dealing with any situation that has already arisen. What he speaks of is a possible contingency or emergency that may arise in the future. If that is so, then, as I have said before, the Council will be in existence, the powers of Ordinance are there, and there is no occasion whatsoever of taking these drastic powers in advance. The supposed limitation of the powers of the special magistrates conveyed by this clause: that they will try only offences committed in furtherance of a movement prejudicial to the public security, is altogether illusory, as Mr. Basu has pointed out to a certain extent. Because if a person is tried before a special magistrate, and if the offence for which he is being tried is not triable by the special magistrate by reason of the limitation, then he has got to take objection before the trying magistrate himself. If he does not take it, there is an end of it and he cannot take it afterwards. And if before the trying magistrate the question is raised, the matter comes before the District Magistrate in the *mufassal* and before the Chief Presidency Magistrate in Calcutta, and his decision is final. Now, what will happen in a case like this? A man is charged with an offence alleged to have been committed in furtherance of a movement prejudicial to the public security. The evidence does not make out such an offence and the evidence dwindles down to this that he has committed a single

individual offence. Suppose the special magistrate finds that he has committed an offence, say of rioting or grievous hurt, and convicts him: he cannot go to any appellate court or any other authority and say "I have been wrongly convicted—the special magistrate has no jurisdiction to convict me," because that question cannot be raised in any court other than the court trying that offence, although the finding of the magistrate may be that the offence is not one which should have come before him. Suppose the question is raised before the special magistrate: it has got to go to the District Magistrate. The District Magistrate says it comes under that clause. However erroneous the finding of the District Magistrate may be, it is not open to the person who is being tried, however strong a case he may have and however erroneous the finding of the District Magistrate may be, to exercise any right of appeal under the ordinary law. So this protection is altogether illusory. All that is needed is to bring him before a special magistrate as distinct from the ordinary courts and for the prosecution to allege that this particular offence was committed in furtherance of a movement prejudicial to the public security. Once that is alleged it cannot be dismissed by the special magistrate without going into evidence, and when the evidence fails to make out a case, there will be no remedy. Therefore any and every offence can easily be roped in under this clause and the protection which is sought to be given by the limitation is altogether illusory. No doubt it will be said that these special magistrates, the District Magistrate and the prosecuting authorities are very responsible persons, honourable persons and honest persons and therefore there is no risk of any failure of justice or any person being tried improperly. If we can only believe that, there is no necessity of any law for the protection of personal safety. If all the officers in the country had been a flight of angels, then, not to speak of the Public Security Bill, we would have easily consented to pass even more drastic legislation. But you cannot always—and even Government admit that—trust all officials to be not only honest but also to have proper judgment. That is the reason why security of person is protected by so many provisions in the ordinary law. The effect of this, therefore, is that the right of the ordinary citizen—a man who has been found ultimately not to be connected with any subversive movement—the right of the ordinary citizen to establish that he is not so connected and to claim trial under the ordinary process of law up to the highest court of appeal, is taken away. If that is not a menace to public safety, I do not know what is. Sir, Mr. Reid has been scandalised by the observations which I made in connection with one of the previous motions and he thinks that I have characterised the Government as a callous Government, trying to harass the ordinary citizen. I did not exactly say that. What I said was that Government had made up its mind to arm itself with maximum powers which would enable them to harass people as much as they could and to make the position of the ordinary citizen

as dangerous as possible; in other words it wants power to make itself a nuisance to the people in order to combat the subversive movement. That is the only assumption upon which the promulgation of such drastic powers, against all principles, against all fairness and against all justice, and without any justification on facts but only on the basis of some possibilities which exist perhaps in the imagination of my hon'ble friends on the other side, can be justified.

Mr. H. S. SUHRAWARDY: I do not know, Sir, whether I am not too late and the mischief has not already been done by clauses 15 to 19, but whatever remnant of legal instincts I carry with me and which I have not left behind in other premises not far away, is unable to make me reconcile myself into supporting clause 19 as it stands. A special magistrate is being appointed under a special Act. Nevertheless he will be empowered to try offences which do not come within the scope of the Act. If the offences which are committed in furtherance of a movement prejudicial to public security come under the Act, then those words are superfluous. If they do not come under the Act, then I cannot conceive how a special magistrate appointed under the Act can try cases which are outside the scope of the Act, and it is quite probable that a magistrate attempting to exercise powers under this Act in relation to offences outside the scope of the Act may be found to exercise powers which are *ultra vires*. In my humble opinion if the Government wants special magistrates to exercise such powers, it ought to introduce a Bill which ought to be called the Special Magistrates Act or Bill which will give them such power. Then you can arm special magistrates with whatever power you desire. But a special magistrate appointed under clause 14, which says that he will be invested with the powers of a special magistrate under this Act, cannot in my opinion try cases which are outside the scope of this Act.

Mr. R. N. REID: Sir, I am not prepared at this moment to enter into any legal controversy as to the legality of the clause which has been attacked on this ground by the last speaker. If the clause is passed and it is found to be illegal, there is the obvious remedy. At present I shall stick to the clause as it is. I think, Sir, we have moved away from the reality in the last few minutes in discussing this clause. As I said before, and I have said times without number, the reason for the introduction of this legislation is to enable Government to be in a position to deal with serious subversive movements such as they had experience of in the past. The Government in view of its past experience—experience which we all know—feels bound to make provision for the possible recrudescence of such subversive movements in the future. In the event of such subversive movements arising experience has shown, and it stands to reason, that the ordinary law needs to be supplemented.

6-45 p.m.

I feel sure, Sir, that if any of our friends in this House who have criticised this clause so severely, find themselves, as they will no doubt find themselves in the future, responsible for law and order in this country, and be in the position in which the people would look to them for the maintenance of public security, I am perfectly certain that they will only be too delighted to have ready at hand this weapon which Government have put before the Council just now. As I said before, the words which the mover of this amendment (No. 71) wishes to omit are desired to meet the case of offences not created as affences under this Bill but offences which find a place in the ordinary law of the land, and to make them publishable by a special and more expeditious procedure. There is nothing more than that in it. I beg to oppose the amendment, Sir.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Huq, Mr. A. K. Fazl-ul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Poddar, Seth Hunuman Prosad.
Ray, Mr. Shanti Shekhareswar.
Reut, Babu Hoseni.
Roy, Babu Haribansa.
Roy Choudhuri, Babu Hem Chandra.
Sen, Rai Bahadur Jogesh Chandra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Suhrawardy, Mr. H. S.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Birkmyre, Mr. H.
Blandy, Mr. B. N.
Burn, Mr. H. N.
Chowdhury, Haji Badi Ahmed.
Cohen, Mr. D. J.
Coppinger, Major-General, W. V.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sunil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Leeson, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Mullick, Mr. Mukunda Behary.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. P.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Rahman, Mr. A. F. M. Abdur-.
Ray, Babu Nagendra Narayan.
Reid, Mr. R. N.

Ross, Mr. J.	Sen, Mr. B. R.
Roy, Mr. Sailakumar Singh.	Sen, Rai Sahib Akshoy Kumar.
Roy, Mr. Saroj Kumar.	Townend, Mr. H. P. V.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.	Wilkinson, Mr. H. R.
Sahana, Babu Satya Kinkar.	Woodhead, the Hon'ble Mr. J. A.
Sarker, Rai Sahib Robati Mohan.	

The Ayes being 26 and the Noes 47 the motion was lost.

Adjournment.

It being 7 p.m the Council was adjourned till 3 p.m. on Thursday, the 15th December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Thursday, the 15th December, 1932, at 3 p.m.

Present:

MR. PRESIDENT (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 108 nominated and elected members.

STARRED QUESTIONS

(to which oral answers were given)

Calcutta High Court.

*122. **Mr. NARENDRA KUMAR BASU:** Will the Hon'ble Member in charge of the Judicial Department be pleased to state—

(i) whether proposals are being considered to bring the Calcutta High Court under the administrative control of the local Government;

(ii) whether the local Government has addressed the Government of India on the subject; and

(iii) whether opportunity will be given to the public to express their views on the question before it is finally decided?

MEMBER in charge of JUDICIAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (i) and (ii) No.

(iii) Does not arise.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state whether there is any other matter concerning the High Court which is under consideration?

The Hon'ble Mr. W. D. R. PRENTICE: Several other matters.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state if it is proposed to transfer the question of appointment of munsifs to the Local Government?

The Hon'ble Mr. W. D. R. PRENTICE: The question of amending the Civil Courts Act is under consideration. It was referred to in the Memorandum to the Simon Commission.

Co-operative Cattle Insurance Societies.

*123. **Rai Bahadur SATYENDRA KUMAR DAS:** Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state whether the Co-operative Department has initiated any measure for starting cattle insurance societies and societies for the protection of cattle from epizootic diseases?

MINISTER in charge of AGRICULTURE and INDUSTRIES DEPARTMENT (the Hon'ble Nawab K. G. M. Faroqui, Khan Bahadur): A cattle insurance society was tried at Saidpur, Jalalpur, but it was not successful and had to be closed down. Investigations were also made as to the feasibility of organising similar societies at other centres. There seems little scope for co-operative advance in this direction.

Unemployment.

*124. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) what steps the Government propose to take to cope with the growing unemployment problem of the province;

(*ii*) whether there is any definite scheme before the Government to give employment to the educated youths; and

(*iii*) whether there is any scheme to give proper industrial training and educational facilities to the unemployed?

(*b*) If the answer to (*a*) (*iii*) is in the affirmative, will the Hon'ble Minister be pleased to state what is the estimated annual cost for such scheme or schemes?

(*c*) Do the Government propose to grant suitable khas mahal lands for the purpose of agriculture to the unemployed youths?

(*d*) Will the Hon'ble Minister be pleased to state what steps, if any, the Government have taken to secure the co-operation and help of the trade and commerce associations, individual, industrial and mercantile concerns and leaders of public opinion, to cope with the problem of unemployment?

(*e*) If such steps have been taken, will the Hon'ble Minister be pleased to state the names of the associations, concerns and individuals concerned?

(*f*) Is it in the contemplation of Government to set apart a reasonable amount in the ensuing budget to cope with the unemployment problem?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) and (*b*) The member is referred to the short account of the scheme for relieving middle class unemployment in Bengal which furnishes necessary information and a copy of which is placed on the library table.

(*c*) Yes: several schemes are in hand. The most important is an experimental scheme for training *bhadralok* youths at the Faridpur farm with the object of settling with them accreted land in the district. The fourth batch of five students completed their training in July, 1932, and will be provided with 15 bighas of land on the *chars* in Madaripur. It has been decided to train a fifth batch of youths at the farm and to provide land in due course.

For details of other schemes of this nature the member is referred to the portion of paragraph 20 of the Land Revenue Administration Report for 1931-32 which deals with *bhadralok* agriculturists. The report has been placed on the library table.

(*d*) and (*e*) The scheme for relieving unemployment has been the outcome of a conference in which a number of non-official members of the Council participated. The scheme also provides for the establishment of District Advisory Associations, the membership of which will be open to the representatives of district boards and others interested in industrial development. Commercial and trading interests are represented on the Board of Industries established under the Bengal State Aid to Industries Act.

(*f*) Yes, it is contemplated to make necessary provision in the next year's budget for the scheme referred to above.

Dr. NARESH CHANDRA SEN GUPTA: Will the Secretary, Agriculture and Industries Department, be pleased to state what has happened to the scheme of Sir Daniel Hamilton who proposed to provide a remedy for unemployment of *bhadralok* youths?

Mr. PRESIDENT: How does it arise out of this question? I think it is much too wide.

Water-hyacinth.

*125. **Maulvi ABDUS SAMAD:** (*a*) Is the Hon'ble Minister in charge of the Agriculture and Industries Department aware that one Syed Ashraful Hossain, formerly a science student of the Dacca University, has discovered a means to kill water-hyacinth?

(*b*) Has the attention of the Hon'ble Minister been drawn to an article on the subject published by the said student?

(*c*) If the answer to (*b*) is in the affirmative, will the Hon'ble Minister be pleased to state whether any steps have been taken to consult the departmental expert as to the practicability of the means discovered by the student?

(*d*) If no steps have been taken, are the Government considering the desirability of making an early experiment by departmental expert?

(*e*) Has the Hon'ble Minister received any petition from the said student along with papers describing the experimental result of his research on water-hyacinth?

(*f*) If the answer to (*c*) is in the affirmative, are the Government considering the desirability of providing adequate facilities to this young man to enable him to carry out his research to a successful completion?

SECRETARY to GOVERNMENT, AGRICULTURE and INDUSTRIES DEPARTMENT (Mr. L. R. Fawcus): (*a*) to (*f*) In September last the attention of Government was drawn to an application from Maulvi Syed Ashraful Hossain in which he stated that he had discovered both chemical and mechanical means for eradicating water-hyacinth and asked for facilities for carrying out his research work. A statement regarding the result of the experiment was also furnished. This was brought to the notice of the Director of Agriculture at whose instance the applicant was asked to give a demonstration of his processes, necessary facilities being afforded by the Agriculture Department. It is understood that this demonstration has been arranged by the Deputy Director of Agriculture, Eastern Circle, in a selected plot near Comilla town. A report on the demonstration is awaited. The application will be considered in the light of this report as soon as it is received.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Secretary, Agriculture and Industries Department, be pleased to state when this statement was brought to the notice of the Director of Agriculture?

Mr. L. R. FAWCUS: As far as I remember, shortly after we received this information, which was in September last.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Secretary, Agriculture and Industries Department, be pleased to state the reason why, in spite of the fact that this was brought to the notice of the Director of Agriculture in September or October last year, it has taken about a year to permit a demonstration?

Mr. L. R. FAWCUS: It was in September last, that is two or three months ago, and not in last year.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Secretary, Agriculture and Industries Department, be pleased to state why Comilla was selected for a demonstration?

Mr. L. R. FAWCUS: Because it appeared to be a suitable place.

Supply of serum to veterinary dispensaries.

*126. **Dr. JOGENDRA CHANDRA CHAUDHURI:** (*a*) Will the Hon'ble Minister in charge of the Department of Agriculture and Industries be pleased to state whether there are any orders of Government prohibiting free supply of serum to a veterinary dispensary established by a district board with proper sanction and run under a veterinary surgeon who is duly qualified but not a Government servant?

(*b*) If the answer to (*a*) is in the negative, will the Hon'ble Minister be pleased to state the reasons for refusing by the Director, Civil Veterinary Department, to supply serum, free of cost, to the Shariakandi Veterinary Dispensary established in the district of Bogra?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*a*) No.

(*b*) It is a fact that the Director, Civil Veterinary Department, has refused to supply serum to this dispensary. It is within his competence to do so as he is responsible for the proper use of Government serum, but Government propose to examine the principles under which supplies of serum are granted and refused.

Certificate cases in Chittagong.

*127. **Haji BADI AHMED CHOWDHURY:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state—

(*i*) how many certificates were issued in Chittagong from the 1st April to the 30th September, 1932;

(*ii*) how many of them were issued for charges below the sum of Re. 1;

(*iii*) whether it is a fact that even in cases of one charge being Re. 1, the charges for certificate cost, *malpahara* cost and other cost amounting to about Rs. 3 are realised; and

(*iv*) how many of the defaulters were informed by post-cards before the certificates were issued?

(*b*) If post-cards have not been issued in all cases, are the Government considering the desirability of making it compulsory to issue cards before certificate cases are filed?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Sir Provash Chunder Mitter): (*a*) (*i*) 14,425.

(*ii*) 2,340.

(*iii*) Costs are realised, but they can never amount to Rs. 3, if the demand is paid after service of notice under section 7.

(*iv*) The information is not readily available.

(*b*) The practice under the existing rules is to issue post-cards before filing certificates in the case of new demands or demands varying from year to year. Government are considering the desirability of modifying the existing rules regarding issue of post-card notices.

Maulvi SYED MAJID BAKSH: With regard to answer (*iv*), will the Hon'ble Member be pleased to state whether any post-card at all was issued in this case?

The Hon'ble Sir PROVASH CHUNDER MITTER: I have already answered that question.

Khan Bahadur Maulvi AZIZUL HAQUE: With reference to answer (*iii*), will the Hon'ble Member be pleased to state how it is possible for a rupee-charge to develop to three rupees?

The Hon'ble Sir PROVASH CHUNDER MITTER: Yes, because the peons have got to go, and other charges have got to be incurred.

Silting up of certain rivers of Rajshahi.

*128. **Babu KISHORI MOHAN CHAUDHURI:** (*a*) Has the attention of the Hon'ble Member in charge of the Irrigation Department been drawn to the silting up of the rivers Baral, Narode, Atrai and other smaller channels in Rajshahi, blocking the natural drainages and the water channels?

(*b*) Is the Hon'ble Member aware that depopulation is fast going on in the south-eastern parts of Rajshahi?

(*c*) Is the Hon'ble Member also aware of the prevailing malaria and the want of good drinking water in the said part?

(*d*) If the answers to (*b*) and (*c*) are in the affirmative, what remedial measures have been taken or have been arranged to be taken to ascertain the real state of things for the relief of the suffering population?

(*e*) Are the Government considering the desirability of forming a local irrigation committee to advise in the matter?

MEMBER in charge of IRRIGATION DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) Yes.

(*b*) The population of several police-stations in the south-east of Rajshahi has been decreasing.

(*c*) The area is malarious and there is shortage of water in some parts.

(*d*) Enquiries have been made regarding the Baral, Narode, Atrai and other rivers. It was found that improvement of the Narode and Atrai was not feasible owing to insufficient fall and that any attempt to increase the flow of the Baral might result in diversion of the Ganges.

(*e*) No.

Babu KISHORI MOHAN CHAUDHURI: With reference to (*d*), will the Hon'ble Member be pleased to state whether inquiries were made by experts, and if any proper survey has been made of the affected locality?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Inquiries were made by the officers of the Department.

Babu KISHORI MOHAN CHAUDHURI: Has any proper survey been made of the locality?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I take it that a proper survey was made of the place.

Babu KISHORI MOHAN CHAUDHURI: Has it been ascertained what would be the population of the part affected?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: No, as far as I am aware.

Babu KISHORI MOHAN CHAUDHURI: Has any other remedial measure other than the improvement of the river been arranged?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: No.

Babu KISHORI MOHAN CHAUDHURI: Is it the decision of Government that the people of the locality shall be doomed to die or shift for themselves leaving their hearths and homes?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Government have never come to such decision.

Khan Bahadur Maulvi AZIZUL HAQUE: What are the reasons for which the opinion is held by the Department that the Ganges is likely to be diverted?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Well, that is the opinion expressed by those who are entitled to know.

Khan Bahadur Maulvi AZIZUL HAQUE: Is it a matter of pure opinion?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: It is the opinion expressed by the experts of the Department.

Khan Bahadur Maulvi AZIZUL HAQUE: Has the Hon'ble Member taken any steps to find out whether that opinion is correct or not?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Government generally accept the opinion of their experts in such technical matters.

Khan Bahadur Maulvi AZIZUL HAQUE: Does the Hon'ble Member-in-charge himself hold the same opinion?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: I am generally guided by the opinion of experts unless there are reasons to the contrary.

Khan Bahadur Maulvi AZIZUL HAQUE: Are these opinions held by Mr. Addams-Williams?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: That gentleman has long left India.

Khan Bahadur Maulvi AZIZUL HAQUE: Is his shadow still prevailing?

(No reply.)

Chairman, Jessore District Board.

*129. **Babu JITENDRA NATH ROY:** (*a*) Is the Hon'ble Minister in charge of the Local Self-Government Department aware that the Government auditor disallowed certain amounts of money drawn by the Chairman of the Jessore District Board as travelling and halting allowances?

(*b*) If the answer to (*a*) is in the affirmative, will the Hon'ble Minister be pleased to state the amount and the time when it was disallowed?

(*c*) Has the money been refunded by the Chairman to the district board?

MINISTER in charge of LOCAL SELF-GOVERNMENT DEPARTMENT (the Hon'ble Mr. Bijoy Prasad Singh Roy): (*a*) Yes.

(*b*) The following amounts were held under objection:—

(*i*) Rupees 364-8 during the audit conducted between April and October, 1929;

(*ii*) Rupees 230-8 during the audit of May to August, 1930; and

(*iii*) Rupees 158 during the audit of July to September, 1931.

(*c*) Out of the total of Rs. 753, the sum of Rs. 563 was declared admissible by Government and the balance of Rs. 190 was refunded by the Chairman.

Mr. P. BANERJI: Will the Hon'ble Minister be pleased to state whether it is not a fact that the amount of Rs. 190 was drawn by the Chairman under orders of Government passed on the opinion of the Examiner of Local Accounts?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I want notice of this question.

Mr. P. BANERJI: Is the Hon'ble Minister aware that after an objection was raised by the Auditor, a circular letter was issued by Government to the effect that the opinion of the Examiner of Local Accounts was found to be erroneous, and hence the question of refund arose?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I want notice.

Assistant to the Assistant Director of Public Health, School Hygiene, Bengal.

*130. **Maulvi NUR RAHMAN KHAN EUSUFJI:** (*a*) With reference to the reply given to starred question No. 167 at a meeting of the Bengal Legislative Council held on the 29th August, 1932, will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state whether the inquiry into the complaint made against Dr. Jyotirmoy Banerjee, Assistant to the Assistant Director of Public Health, School Hygiene, Bengal, has been completed?

(*b*) If the answer to (*a*) is in the affirmative—

(*i*) what is the result of the inquiry; and

(*ii*) what steps, if any, do the Government intend taking in the matter?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*a*) Yes.

(*b*) (*i*) and (*ii*) The report is under consideration.

Chiranjilal Shroff.

*131. **Mr. P. BANERJI:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state whether *détenu* Chiranjilal Shroff is still under restraint? If so, under what order?

(*b*) Will the Hon'ble Member be pleased to state why no family allowance for the *détenu* was given during the period from 29th April, 1930, up to date?

(*c*) Are the Government aware that he is the only earning member of the family, and that the members of his community at a meeting at Tarasundari Park in Calcutta in April, 1931, declared that his family was suffering for his detention and Government's apathy to his family for making provision?

(*d*) Are the Government aware that a petition signed by 45 merchant firms of the Marwari community was sent to the Government contradicting the police report that he was not the only earning member for the information of the Government?

(*e*) Will the Hon'ble Member be pleased to state the reasons for not taking any action on the petition for family allowance?

(*f*) Are the Government paying him any personal allowance? If not, why not?

MEMBER in charge of POLITICAL DEPARTMENT (the Hon'ble Mr. W. D. R. Prentice): (*a*) No, not within the meaning of the term as used in section 12 of the Bengal Criminal Law Amendment Act, 1930, but an order under section 2(*1*)(*a*)(*b*)(*c*) is in force against him.

(*b*) to (*f*) Government are not prepared to supply this information.

3-15 p.m.

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to state if any personal allowance was granted to the person in question?

The Hon'ble Mr. W. D. R. PRENTICE: I have nothing to add to my answer (*b*) to (*f*).

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the person against whom an order under section 2(*1*)(*a*) has been passed is entitled to a family allowance?

The Hon'ble Mr. W. D. R. PRENTICE: I would refer the member to section 12 of the Act which he can read for himself.

Mr. NARENDRA KUMAR BASU: With reference to answer (*b*) to (*f*) will the Hon'ble Member be pleased to say whether it is against public interest to supply the information?

The Hon'ble Mr. W. D. R. PRENTICE: I have nothing to add to my answer.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state if it is a fact that Chiranjilal Shroff was given Rs. 67-12 on the 18th August, 1931, at the rate of Rs. 2-8?

The Hon'ble Mr. W. D. R. PRENTICE: I have nothing to add to my answer.

Mr. SYAMAPROSAD MOOKERJEE: May I presume that if an answer is given to this question it would be against Government interest?

(No answer.)

Babu JITENDRALAL BANNERJEE: Will the Hon'ble Member be pleased to give us the reason why he refuses to answer this question?

The Hon'ble Mr. W. D. R. PRENTICE: I have nothing further to add.

Babu SITENDRALAL BANNERJEE: On a point of order, Sir. If an Hon'ble Member refuses to answer certain questions, are we not entitled to ask why he refuses to supply the information, although he may or may not supply the information?

Mr. PRESIDENT: I think I heard the Hon'ble Member to say that he could not answer this question in the public interest.

The Hon'ble Mr. W. D. R. PRENTICE: I said that I had nothing to add to the information I have given.

Mr. PRESIDENT: Could you then say something to justify your attitude and to satisfy the House?

The Hon'ble Mr. W. D. R. PRENTICE: I do not think that curiosity is a valid reason for asking questions. I think I am perfectly within my rights in saying that Government is not prepared to give further information.

Mr. PRESIDENT: I am compelled to say that this appears to be an honest inquisitiveness on the part of the members to get information on the point. I think they have got to be told that either in the public interest, or in the interest of the administration you represent it is not possible for you to give an answer.

The Hon'ble Mr. W. D. R. PRENTICE: The last alternative is in effect the wording of my answer (*b*) to (*f*).

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government have decided that Chiranjilal Shroff has no grievance in connection with his allowance?

(No answer.)

Mr. SHANTI SHEKHARESWAR RAY: On a point of order, Sir. Is the Hon'ble Member entitled to sit quiet.

Mr. PRESIDENT: You cannot help that.

Dr. NARESH CHANDRA SEN GUPTA: Do I understand the Hon'ble Member to imply that Government are not prepared to supply this information not because it is against public interest but without any reason whatsoever?

The Hon'ble Mr. W. D. R. PRENTICE: The words are there. Government are not prepared to supply the information.

Mr. P. BANERJI: Will the Hon'ble Member be pleased to state whether he is aware that this Chiranjilal Shroff is tortured by members of the police force every now and then?

The Hon'ble Mr. W. D. R. PRENTICE: May I ask if that arises out of this question?

Mr. PRESIDENT: I should like to clear one point. If the Hon'ble Member is not willing to add anything to what he has already said, it is no good putting any more questions to him but I think it would be fair to the Council if the Hon'ble Member could say that it is really necessary that Government should withhold the informations asked for in the interest of the administration or in public interest. I think that would satisfy the Chair as well as the members of this House; but in the absence of any such statement it becomes rather difficult for me to support the Hon'ble Member. I do not know if the Hon'ble Member is prepared to take this hint from the Chair.

The Hon'ble Mr. W. D. R. PRENTICE: The last question was if it was a fact that this person was being tortured regularly daily by the police officers. I suggest that that is not a question that arises out of the question of allowances.

Mr. PRESIDENT: I am not speaking of the supplementary question. This discussion arose out of the fact that the Hon'ble Member was not giving any reason as to why he was withholding certain informations that were being asked for by the House. I wish—I do not insist upon it—that the Hon'ble Member could say that the information was being withheld in the interest of the administration, or in public interest. Probably that will satisfy the House as well as the Chair.

The Hon'ble Mr. W. D. R. PRENTICE: Government do not give an answer like this unless they consider it to be in the interest of the administration.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if he has personally examined the record of this person in view of the statement he made in this House that he goes into these cases personally?

The Hon'ble Mr. W. D. R. PRENTICE: Is that a proper supplementary question, Sir?

Mr. PRESIDENT: I think the question is all right.

The Hon'ble Mr. W. D. R. PRENTICE: I have examined the case personally.

Maulvi ABUL KASEM: On a point of order. Is it not in the Government of India Act and the rules framed under that Act that Government is bound to answer every question that is allowed by the President? There may be matters which in the public interest should be withheld but the procedure to be followed in that case is that the Government should explain to the Chair the reasons why they cannot answer it and the Chair should disallow the question and the Member of Government should not refuse to answer the question. You, Sir, as the custodian of the honour of this House should help us in the matter.

Mr. PRESIDENT: I do not think you are right when you say that the question must be answered but at the same time it is fair that some reason should be given, if demanded, why no answer was being given. I cannot allow any discussion on any answer or any particular reply given, but I must tell the Hon'ble Member that it is incumbent on him to give some reasons for the satisfaction of House as to why certain informations are being withheld. I know that it is the privilege of Government to refuse to answer a particular question; but I must say with all the emphasis I command that, it is always expedient, it is always reasonable to give some reasons, if demanded, as to why certain informations are being withheld.

The Hon'ble Mr. W. D. R. PRENTICE: In answer to a previous remark of yours I explained that Government did not think that it was in the interest of public or of the administration to supply the information. I do not think anybody can accuse Government for refusing to give information as a rule.

Mr. PRESIDENT: Do I understand you to say that it cannot be answered in the interest of public or of the administration?

The Hon'ble Mr. W. D. R. PRENTICE: Yes.

Babu JITENDRALAL BANNERJEE: If Mr. Prentice gave this answer a few minutes earlier it would have saved much valuable time of the Council. It would also have been courteous to the House and to the Chair.

Maulvi ABUL KASEM: With due deference to your ruling that Government has the right to refuse to reply I submit that Government can refuse if they can satisfy the Chair that there are good reasons and not otherwise.

Mr. PRESIDENT: I think the Chair would be satisfied when a Member in charge of a particular department to which the question relates made a *bona fide* statement to the effect that, in the interest of the administration or in public interest, he was compelled to withhold certain informations.

Mr. NARENDRA KUMAR BASU: Will not the President be satisfied that the answer that is given is given voluntarily and not after a considerable amount of resistance?

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if he is satisfied that no injustice has been done to this person?

The Hon'ble Mr. W. D. R. PRENTICE: Of course I am satisfied. If there were any injustice then it would have been remedied.

Collective fine on certain villages in Midnapore.

***132. Mr. R. MAITI:** Will the Hon'ble Member in charge of the Political Department be pleased to state—

(*a*) whether a collective fine of Rs. 2,000 and Rs. 1,000 has been recently imposed under the Special Powers Ordinance No. X of 1932 on the inhabitants of certain villages within the jurisdiction of Nandigram police-station and Mahisadal police-station respectively in the district of Midnapore, as the inhabitants of the said villages appear to have been concerned in the commission of offences and other acts which are prejudicial to the maintenance of law and order and are harbouring persons concerned in the commission of such offences and acts;

(*b*) if the answer to (*a*) is in the affirmative, what are the offences and other acts which the inhabitants of those localities have committed or are still committing; and

(*c*) will the Hon'ble Member be pleased to state at what rate, on what date and from whom the collective fine is to be realised?

The Hon'ble Mr. W. D. R. PRENTICE: (*a*) Yes.

(*b*) In the case of the Nandigram police-station villages the occasion was continued lawlessness culminating in the burning of an Irrigation Department building belonging to Government at Nar. In the case of the Mahisadal police-station villages the immediate cause was a serious assault by a crowd of villagers on a collecting *panchayet* while doing his duty in collecting chaukidari tax.

(*c*) Government are not yet in possession of this information.

Mr. R. MAITI: Will the Hon'ble Member be pleased to state whether the order for the realisation of the collective fine was passed after the punitive police was withdrawn from those areas after realising the punitive police tax as well as after Mr. P. Banerji made certain allegations against certain officers of Midnapore in connection with the posting of additional police in those areas?

The Hon'ble Mr. W. D. R. PRENTICE: Regarding the first, I must ask for notice. As regards Mr. P. Banerji's allegation I may say it had nothing to do with the order.

Mr. R. MAITI: With reference to answer (*b*), will the Hon'ble Member be pleased to state whether in the case of Nandigram police-station villages the offence was committed during the time when the punitive police was there or during the time when the punitive police tax was being realised?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice. I have already said that I do not know the date.

Mr. SYAMAPROSAD MOOKERJEE: Will the Hon'ble Member be pleased to state whether the men who committed lawlessness as mentioned in answer (*b*) were prosecuted by the police?

The Hon'ble Mr. W. D. R. PRENTICE: I must ask for notice.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government have decided to realise the collective fine from the Hindu inhabitants only?

The Hon'ble Mr. W. D. R. PRENTICE: I think if you will read answer (*c*) you will find that we are not yet in possession of the information.

Jessore District Board.

*133. **Babu JITENDRA NATH ROY:** Will the Hon'ble Minister in charge of the Local Self-Government Department be pleased to state—

(*i*) when the elections to the local boards of the Jessore district took place;

(*ii*) when the nominations to the local boards were made;

(*iii*) the reason for delay between the elections and the nominations;

(*iv*) when the elections to the district board took place;

(*v*) whether any local board failed to elect members to the district board;

(*vi*) if so, the reasons for the failure;

(*vii*) whether the nominations to the district board have been finished;

(*viii*) if not, what is the cause for the delay; and

(*ix*) if the nominations have been finished when have such nominations been submitted?

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: (*i*) At various dates between April, 1931, and August, 1931.

(*ii*) May, 1932.

(*iii*) There were several difficult questions due to communal and party feeling to be settled.

(*iv*) July-August, 1932.

(*v*) Yes.

(*vi*) There was a dispute regarding the date fixed for the special meeting followed by the issue of an injunction by a civil court.

(*vii*) No.

(*viii*) The matter is under consideration in consultation with the local officers.

(*ix*) Does not arise.

Quartering troops in certain places.

*134. **Mr. ANANDA MOHAN PODDAR:** (*a*) Will the Hon'ble Member in charge of the Political Department be pleased to state:—

(*i*) how many regiments have been recently posted in the different parts of Bengal;

(*ii*) the places where they have been posted;

(iii) the number of troops in each of these regiments;

(iv) what is the approximate monthly expenditure to be incurred for each regiment in each district;

(v) what is the estimated initial expenditure for the erection of barracks and sheds for each regiment in each district; and

(vi) whether the costs of these regiments will be borne by the Government of Bengal or the Government of India?

(b) Has the attention of the Hon'ble Member been drawn to the disorderly conduct and assaults by such troops on the innocent members of the public at Midnapore, Comilla and Dacca?

(c) If so, will the Honb'le Member be pleased to state what steps, if any, the Government has taken or does it propose to take in the matter and with a view to prevent a recurrence?

The Hon'ble Mr. W. D. R. PRENTICE: (a)(i) Seven.

(ii) Dacca, Saidpur, Mymensingh, Chittagong, Bankura, Comilla and Midnapore.

(iii) 747, 679, 603, 621, 668, 676 and 601.

(iv) and (v) The information is not available.

(vi) The major portion of the cost will be borne by the Government of India and certain extra charges by the Local Government.

(b) and (c) Government are not aware that there have been disorderly conduct and assaults by the troops as alleged in the question. There were at first instances of occasional friction between the public and the troops, but suitable orders have been issued, and the friction has since ceased.

3-30 p.m.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state whether the movement of troops is controlled by the Government of Bengal or by the Army Department?

The Hon'ble Mr. W. D. R. PRENTICE: The Military authorities control the movement of troops.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if the Government of India asked the Government of Bengal to pay for the extra charges?

The Hon'ble Mr. W. D. R. PRENTICE: There was mutual arrangement.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state, in view of the fact that the army is kept both for external and internal purposes, whether any representation was made to the Government of India to say that that Government should bear the entire charges?

The Hon'ble Mr. W. D. R. PRENTICE: Sir, we had a similar discussion in connection with the Hon'ble Mr. Woodhead's motion about this matter two or three days ago. If we are to go into that question again I am perfectly willing to do so. Roughly—of course I am not giving the exact position—the normal position is that the Government of India pay the ordinary charges for the troops and they pay for them wherever they are stationed, but if any extra charge is incurred to support the civil power, those extra charges are borne by the civil power.

Dr. NARESH CHANDRA SEN GUPTA: With regard to answers (*iv*) and (*v*), have Government any idea of the cost to be incurred by the Government of Bengal—whether it will be in thousands or lakhs or crores?

The Hon'ble Mr. W. D. R. PRENTICE: I think the last is impossible, the second is unlikely; probably in thousands.

Mr. SHANTI SHEKHARESWAR RAY: I want a definite answer whether the Government of India asked for payment in connection with the troops?

The Hon'ble Mr. W. D. R. PRENTICE: I have already said it was mutually arranged.

Mr. SHANTI SHEKHARESWAR RAY: My question is whether the Government of India asked for payment or whether the Government of Bengal volunteered to pay.

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid I am not in a position to disclose correspondence.

Mr. B. C. CHATTERJEE: On a point of personal explanation, Sir. You were pleased to say that the correspondence amounted to a declaration and Mr. Prentice says that he cannot disclose it.

UNSTARRED QUESTION

(answer to which was laid on the table)

Sugarcane cultivation.

38. Maulvi TAMIZUDDIN KHAN: Will the Hon'ble Minister in charge of the Agriculture and Industries Department be pleased to state—

(*i*) what is the policy of the Government with regard to the cultivation of sugarcane in this province;

(*ii*) what steps, if any, were taken by the Government in each sugarcane growing district in the province for encouraging the cultivation of sugarcane during the last year; and

(*iii*) what steps, if any, do the department intend to take in this respect during the current year?

The Hon'ble Nawab K. G. M. FAROQUI, Khan Bahadur: (*i*) To encourage the cultivation of improved varieties of sugarcane such as Co 213 which is both a heavier yielder and better quality cane than any of the local canes generally grown.

(*ii*) Over 50 lakhs of cuttings were distributed in several districts of the province last year.

(*iii*) To continue the distribution as far as the funds permit, with the existing staff.

GOVERNMENT BILL.

(The discussion on the Bengal Public Security Bill, 1932, was then resumed.)

Mr. S. M. BOSE: Sir, I beg to move that clause 19(2) be omitted.

My grounds are these: First, that it is very unusual to give to subordinate courts the final power of saying whether another court has authority or jurisdiction to try a particular offence or not. Such a rule is not to be found in any of the similar laws that we have been recently enacting. For instance, may I refer to section 25 of the Bengal Suppression of Terrorists Outrages Act, 1932, which was passed only in last August? In that Act, Chapter II deals with certain offences which are to be tried by a certain special court and there is no similar rule as is sought to be enacted in clause 19(2) of this Bill that a subordinate court is to have final power of saying whether that offence

comes within the Act or not. My second ground is that clause 18 of this Bill provides for an appeal in case of sentences for terms not exceeding four years and I believe the Government of India is going to pass a law regarding appeal to the High Court in case of a heavier sentence. I can understand a rule being made like clause 19 (2) if there is to be no appeal at all, if the trial is to be final once for all, but if the right of appeal is given as it has been, then I fail to understand why the appeal should be made infructuous and why it should not be an open appeal on all grounds. The High Court may have to decide on appeal whether the lower court has acted *intra vires* or *ultra vires* of this Act and this is a very important matter and to shut this out is practically to shut out the right of appeal altogether. My third ground is that we have here no authority to deprive the High Court of its power over offences and over certain subordinate courts under sections 106 and 107 of the Government of India Act. Suppose, for instance, in a trial Government says that the offence before the special magistrate comes within this Bill, but the accused contends it does not. The High Court would undoubtedly on appeal, if the sentence be for more than four years, or on revision, have, under the Government of India Act, power to say whether the offence for which the man was tried in the lower court does come under this Act or not, and I do not really understand how by this clause you can deprive the High Court of its power. Yesterday amendment No. 71 of my friend Mr. Narendra Kumar Basu, in spite of the strong case made out by him, was unfortunately not accepted. This makes it all the more essential that my amendment should be accepted. The very wide term of sub-clause (*1*) makes it imperative that there should be an effective check, a full and free right of appeal. To keep this sub-clause (*2*) and yet to speak of a right of appeal in the same breath is, if I may say so, ludicrous. Then it will be far better and more honest to say plainly that there shall be no right of appeal. Why does the Government give in one hand and takes away with the other? I, therefore, strongly appeal to Government to accept my amendment.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 19(*2*), in lines 8 to 10, the words "and the decision of the Chief Presidency Magistrate or the District Magistrate as the case may be, shall be final" be omitted.

Sir, if the amendment just moved by my friend, Mr. S. M. Bose, is not accepted by the House, then I think it will be vitally necessary to have the amendment that I have just had the honour to move. Sir, it may be in the recollection of the members of this House that under section 530, clause (*p*) of the Criminal Procedure Code, if any magistrate, not being empowered by law in this behalf, does any of the following things, namely, among others, tries an offender, his proceedings shall

be void. Therefore the power of a magistrate to try a case is a question which goes to the root of the proceedings. What will be the effect of having these words in the clause as now placed before us. The court of appeal—I am not speaking of the High Court—may hold that under section 530 (*p*) of the Criminal Procedure Code the trial is void, but under this clause, as it now stands, the Sessions Judge, I mean the court of appeal, will have no power to go into that question at all. So far as the High Court is concerned, I shall respectfully ask you, Mr. President, to consider whether it is *intra vires* of the local legislature to say that a matter which is heard by a subordinate court shall be final and the High Court shall not calllenge its judgment. Under section 107 of the Government of India Act I would ask for your ruling whether a provision like this is *intra vires* of this legislature. In my submission section 107 of the Government of India Act undoubtedly gives the High Court power of superintendence over all subordinate courts in the province and it has been held both by the Calcutta and Bombay High Courts that even in a trial under the Ordinance the power of the High Court under section 107 of the Government of India Act is not taken away. I ask for your ruling whether an order of the District Magistrate shall be final and shall not be questioned in any other court and whether Government is doing something which is *intra vires* of this legislature. I submit with confidence that you will hold that this is *ultra vires* of the legislature. That is one of the reasons why I am asking the House to accept my amendment. My second ground is that even if it were held by you to be *intra vires*, I submit that this House ought not to allow this vital question—a question which has got to be decided before the trial begins, that is, at the inception of the proceedings—I say the House ought not to allow this vital question to rest finally on the decision of the District Magistrate. We all know that District Magistrates in this province have seldom much experience of criminal trials and to lay upon them this heavy burden of coming to a final decision on a question of jurisdiction, is, I submit, laying upon them more than they ought to bear.

3-45 p.m.

The other reasons given by Mr. S. M. Bose that it would make the appeal nugatory—the House has already heard. I therefore with a great deal of confidence ask that my amendment should be accepted. Before other speeches are made on this motion I shall be glad to have your ruling, Sir, on the point of order I have raised.

Mr. PRESIDENT: Perhaps you would not mind if I gave my ruling after I have heard the Hon'ble Mr. Prentice.

The Hon'ble Mr. W. D. R. PRENTICE: I think a lot of this discussion is owing to a misunderstanding. The local Government never

imagined that it could legislate as regards the High Court and no section in this Bill is intended to affect the High Court at all. Provincial legislation deals only with courts over which the local Government have control, and does not affect the jurisdiction of the High Court in the least. It refers only to the local courts for which the provincial legislature can legislate. It is not intended to deprive the High Court of any of its powers. If there is to be any such limitation over the powers of the High Court, it must be done by the Government of India with whom such power rests.

Mr. NARENDRA KUMAR BASU: Not even by the Government of India.

The Hon'ble Mr. W. D. R. PRENTICE: But that is a different matter. There is no intention in this section to affect the High Court, and the ordinary canons of interpretation of provincial legislation make it perfectly clear that this legislation does not and cannot apply to the High Court.

Mr. NARENDRA KUMAR BASU: On a point of order, Sir. May I point out that if the local Government do not mean to exclude the jurisdiction of the High Court they ought not to use the words which bear that interpretation! Surely the English of this local legislature should not be different from the English of other legislatures!

Secondly, I would ask you and this House to consider whether the average District Magistrate has that knowledge of constitutional law under the Government of India Act which would allow him to interpret the section even with the limitation imposed by the Hon'ble Mr. Prentice.

The Hon'ble Mr. W. D. R. PRENTICE: I do not know whether it is a point of order or what?

Mr. PRESIDENT: This does not seem to be a very difficult matter, but at the same time I should like to satisfy myself with regard to certain points; what happens if we deferred consideration of this clause until we reassemble after the prayer adjournment?

The Hon'ble Mr. W. D. R. PRENTICE: I do not object to this being done.

Mr. PRESIDENT: Probably that is the best thing to do. I do not wish to deal with the matter in a summary fashion. When the point has been raised with so much seriousness, I had better go into the thing very carefully and give my considered judgment after the 4 o'clock

adjournment, or even later, after the second adjournment at 5-15, unless we reach the last clause of the Bill before that. Let us now take up clause 20.

Clauses 20, 21 and 22.

Mr. PRESIDENT: The question before the House is that clauses 20, 21 and 22 stand part of the Bill.

Mr. NARENDRA KUMAR BASU: Mr. President, Sir, I beg to move that clause 20 be omitted.

The arguments in favour of this amendment have been placed by me several times before this House in connection with the other Bills brought in by Government and I submit that the power of a Special Magistrate to deal with accused persons in their absence is something which is really unknown in the British system of jurisprudence. I know, Sir, that I shall be immediately told that this power will be used only in cases of emergency, but I submit, Sir, that even in cases of emergency Government ought not to do anything which it knows to be wrong and illegal.

Mr. R. N. REID: I think the answer to this amendment is that it is intended to be used, and will be used only in the case of accused persons who persistently behave in a disorderly manner and therefore in fact place themselves out of court. It is not intended to use this clause as a backdoor means of holding trials in camera without the presence of the accused, but it is no more than a means of counteracting what we have had experience of, the methods practised by certain accused persons in order to stultify judicial proceedings. I beg to oppose the amendment.

The motion of Mr. Narendra Kumar Basu was then put and lost.

Mr. NARENDRA KUMAR BASU: I beg to move that in clause 20(*4*), in line 5, the words "or all" be omitted.

I think, Sir, this is either a mistake, or if it is not a mistake, it is a deliberate evasion of its duties by Government. The whole of the previous three paragraphs refer to an accused, who in a trial before a Special Magistrate, has by voluntary act rendered himself incapable of appearing before the Magistrate, etc., etc., when the Magistrate may proceed with the trial in the absence of such accused. There is no suggestion except of course the well-known one—that the singular includes the plural—there is no suggestion anywhere in clause 4 that in the absence of the entire body of accused the trial shall go on. By introducing these seemingly innocuous words "or all" in line 5 of clause 20(*4*) Government want to take powers of proceeding with the trial,

mind you, in the absence of all the accused persons. If this is a trial under the British system of jurisprudence, I would like to know what it is not. I would submit that, in the absence of all the accused, for even a Special Magistrate to go on with the proceedings would be a farce. Why not straightaway say that in the absence of all the accused, in the absence of prosecution evidence and in the absence of policemen, a Special Magistrate can send men to jail, and finish with it! I submit that the whole of the clause lends itself even to this suggestion—that that even if one or two accused persons, out of, say, six, are recusant and do not appear—even in that case a Special Magistrate may proceed with the trial in the absence of all accused persons—this clause lends itself to this construction also. I submit that the introduction of these two words is thoroughly un-British and I hope that the Government of Bengal, which is still British to some extent, will see their way to accept this amendment.'

Mr. R. N. REID: I think the reasonable interpretation of these words is that the words "whose attendance has been dispensed with" occurring in sub-section (*1*) qualify the words "any or all accused." It is not a subtle dodge to reduce all trials to a farce. That is the ordinary interpretation of the words. "Any or all" qualify the words "whose attendance has been dispensed with." If any or all the accused had their attendance dispensed with, under sub-section (*1*), then only sub-section (*4*) comes into force.

Mr. NARENDRA KUMAR BASU: Then you can go on with the trial in such a case?

Mr. R. N. REID: Yes, that is my opinion. I beg to oppose the amendment, Sir.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Banerjee, Babu Jitendralal.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Ray Chowdhury, Babu Satish Chandra.
Rout, Babu Hemoni.
Roy, Babu Jitendra Nath.
Roy Choudhuri, Babu Nem Chandra.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Ali, Mr? Altaf.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Burn, Mr. H. H.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. C.
Das, Rai Bahadur Kamini Kumar.
Enoufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkarim.
Gilchrist, Mr. R. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. C. R.
Hossain, Maulvi Muhammad.
Hussain, Maulvi Latafat.
Hogg, Mr. C. P.
Hooper, Mr. C. C.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Lesson, Mr. G. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. B. F.
Philpot, Mr. H. C. Y.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Ray, Babu Khetter Mohan.
Ray, Babu Hagendra Narayan.
Ray Chowdhury, Mr. K. G.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarker, Rai Sahib Rebati Mohan.
Sen, Mr. B. R.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Thompson, Mr. W. N.
Townend, Mr. H. F. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 29 and the Noes 67, the motion was lost.

Mr. PRESIDENT: The question is that clauses 20, 21 and 22 stand part of the Bill.

The motion was put and agreed to.

4 p.m.

Clause 23.

Mr. PRESIDENT: The question is that clause 23 stand part of the Bill.

Mr. MUKUNDA BEHARY MULLICK: I beg to move that in clause 23(*2*), in lines 5 to 7, the words "or to any local authority or rent of agricultural land, or anything recoverable as arrears of or along with such rent" be omitted.

Sir, I regret very much to observe that Government should have been advised to insert a clause of this sort in the Bill, which is aimed

at authorising the Government to take measures against actions subversive of law and order in reference to public security. By this clause it is intended that if the tenants do not pay their rent, they should also be brought under the clutches of this Bill. It is a pity that the most docile and law-abiding of His Majesty's subjects are going to be poked and provoked in a way of which they have no idea whatsoever. Is there any case, I ask, of intentional default of payment of rent or any sum payable either to the landlord or to the local authority, when the tenants are really able to pay? They have submitted themselves to enhancements of rents by more than 100 to 200 per cent. through the measures taken in the name of Law. And in this way they have added to the unearned profits of the landlords. It is only in very exceptional cases, as has happened in recent years, that the tenants have been unable to pay their dues. But even then, is not there the law which allows the landlords to proceed against the tenants for their failure to pay their dues as rents and other dues payable as such? Now if this clause were to stand, will it solve the difficulty? I say, it will not. The tenants will be right glad indeed if by the introduction of a clause of this sort, means were found to relieve them of all their liabilities to the landlord and all public bodies. But I venture to think that it is impossible for any human institution to do so. On the contrary, if this clause were to stand, it will only help in widening the gulf of differences and the strained feelings which have already been introduced between the tenants and the landlords by means of various legislative measures. It will neither help the Government nor the landlords and it will only add to the miseries of the poor tenants who are already under heavy burdens.

Lastly, this clause is against the provision of clause 26, which the Select Committee on this Bill thought proper to insert.

I venture to maintain, therefore, that the Government would be very wrongly advised if they still persist in retaining this clause in this Bill. And I move that the same be deleted.

Mr. NARENDRA KUMAR BASU: I beg to support the amendment. I do not see any reason why the drastic provision of this Bill should be brought in for the purpose of helping landlords to recover their arrears of rent from their tenants. If it is sought to be a sort of sop to the landlord for any injustice done to them, I do not know; but otherwise there is absolutely no reason why private dues payable by tenants to landlords should be brought into the scope of this Bill. As the mover of the amendment has pointed out, it will serve to widen the cleavage between the landlord and the tenant. I do not know whether the landlords want it or not: I do not know whether it has its origin on any demand for such action from the great landlords of the province. If it is so, Sir, I shall still hold that it is an unreasonable demand.

Dr. NARESH CHANDRA SEN GUPTA: I am afraid, there is a slight misapprehension in regard to this clause. The effect of declaring the rent of agricultural land or any sum recoverable as arrears of land revenue, etc., along with such rent, to be a notified liability, is not that a rent is going to be realised by any special process. The amendment to clause 26 by the Select Committee puts that out of the provisions of section 26. But the real effect of this would be to bring into operation clause 24, that is to say, any person who instigates people—any single person or class of persons—not to pay or, even to defer payment of a notified liability, will be liable to punishment; but although the whole of this Bill must be regarded as becoming applicable only in case of emergency, clauses 23 and 24 are singularly devoid of any expression which indicates that this instigation must be in connection with any movement against public tranquillity or things of that sort; that is to say, if I ask the tenants of a particular locality who are suffering from the havoc of flood or famine—if I ask them not to worry about the payment of the rent for the present and ask them to wait till the next harvest —if I go and tell this to one or two or 10 tenants, I fall into the mischief of clause 24. That is a most dangerous thing to do. It would have been very different if the clause was specifically limited to any particular movement, and in that case it would have to be judged with reference to the merits of that particular movement. As the clause stands, it does not refer to any particular movement, it does not require that the instigation should be as a result of any subversive movement. Under these circumstances, Sir, the words "or rent of agricultural land" may be a source of much mischief.

I am afraid that the main purpose of the Bill is directed against the civil disobedience movement and has very little to do with this little addition because the civil disobedience movement in Bengal has been conducted by persons who have shown the utmost tenderness to the landlords, and although occasionally in some places a no-rent campaign has been talked about nothing serious has really been done. Therefore this proposal does not hit the civil disobedience movement but some other movements based upon real economic difficulties; and this summary way of dealing with that sort of movement is the last thing that the Government ought to adopt. For this reason, Sir, I support the amendment moved by Mr. Mullick.

Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur: I am sorry to say, Sir, that the first two speakers have read this clause from a different angle of vision. They have directed their angle of vision only so far as the landlords only are concerned. Sir, I respectfully request them to re-read the clause, and if they do so, they will find that it deals not only with land revenue and rent but also with rates and taxes, and not only with the *zamindars*, but also with local authorities and other

persons. I am sorry that they have attacked the *zamindars* only and have brought in personal questions in connection with this clause. I am so sorry for this partial way of thinking. This shows their attitude towards *zamindars*. How prejudicial they are, how biased they are from the beginning. This is most regretable, and cannot be expected from my friend Naren Babu.

Maulvi HASSAN ALI: Sir, may I move my amendment which is analogous to the one under discussion?

Mr. PRESIDENT: Yes, you might do that.

Maulvi HASSAN ALI: Sir, I beg to move that in clause 23 (*2*), in lines 6 and 7, the words "or rent of agricultural land or anything recoverable as arrears of or along with such rent" be omitted.

Sir, I for one am in favour of deleting the whole clause. But, Sir, as I am directly concerned with the representation of the tenantry, so by my amendment I want to restrict myself to the exclusion of rent and cesses and arrears thereof, of agricultural lands with which the peasantry of the land is concerned.

Sir, I am against the making of rent of agricultural land as a notified liability. Hitherto we have been told that the civil disobedience movement is restricted to the educated section of the public. Now, Sir, Government wants to tell us that the civil disobedience movement has spread among the cultivating rustics of Bengal also, and there will soon develop a no-rent campaign among the tenants.

Sir, hitherto, jails of Bengal were filled up by educated youths and now Government wants to fill them up with the cultivators by means of making rent as a notified liability. Sir, hitherto the rent has been regarded by law as the first charge upon the land, and now it is to be regarded as the first charge upon the persons of the tenants as well. Such to my mind, Sir, appears to be the gist of the clause. For clause 24 provides that any person unlawfully refusing to pay rent, it being a notified liability, shall be sent to jail. But I do not understand how to distinguish between unlawful refusal and lawful refusal to pay rent.

4-15 p.m.

What guarantee is there in the Bill that pleading inability to pay rent on account of economic distress, low price of crops and failure of harvest will not be construed by the authorities as unlawful refusal to pay? Thus, Sir, in these days of scarcity of money, if any cultivator due to his inability to pay the rent, expresses any sign whatsoever visible or non-visible of "no-pay" the authorities will smell the danger of no-rent campaign and will create havoc in the village.

And, Sir, if the Hon'ble Mr. Prentice's amendment motion to clause 26 (*1*) of the Bill for applying certificate procedure in realisation of agricultural rent be carried in the House, a great engine of oppression upon the tenants will be put in the hands of the landlords and perhaps in no long time we will see Bengal again in the grip of *zamindari* and *zooloom* of olden days of history.

In these hard days of economic crisis *zamindars* will naturally without going to civil court for realisation of their dues, take recourse to easier and more effective method of certificate procedure and thus the holdings and movables of the *raiyats* will be sold, their persons will be arrested and in a very short time we will see them destitute of their hearths and homes. And it is no wonder, Sir, that in no time the days of Warren Hastings and Dewan Gangagobinda Singh will be recalled again in Bengal the memories of which still crop up in the minds of men specially of my district whenever they come across the remnants of the notorious jungle of Prannagore of old history.

Sir, my hon'ble friend the Raja Bahadur of Nashipur is afraid as indicated in his note of dissent of no-tax campaign. He says, Sir, that "if no-tax campaign be launched it is generally the aggrarian people who will be most swayed by the movement" and the "landholders will be the greatest sufferers." He, therefore, Sir, on behalf of the landholders of Bengal, wants to surrender themselves to the Government and thus wants to take recourse to certificate procedure in place of ordinary civil court. But I only ask him and his co-patriots this: "Why should the landlords surrender their all to Government? Have the landlords of Bengal lost all their sense of responsibility to the country? Have they all lost all their moral influences over their tenants after a lapse of a century and a half which they have exercised so long with advantage? Will the *zamindars* of Bengal, one and all, want now to make their *zamindaris* to so many estates of wards?"

The Raja Bahadur says, Sir, that "there should be no apprehension of any oppression on tenants because the measure will be directed against the wilful non-payment of legal dues only when they are able to pay such rent, which in any case they will have to pay some time or later." But, Sir, as I have said already, how to distinguish between wilful non-payment of legal dues and non-wilful non-payment of them? What guarantee the Raja Bahadur gives that the tenant's expression of inability to pay due to economic crisis will not be taken as a pretext by the *zamindar* to have to go to the Collector and apply for certificate procedure?

Mr. Thompson, Sir, in his note of dissent says that when Lord Cornwallis completed the Permanent Settlement in 1792, he hoped thereby to establish a class of landlords who would be men of substance, able to meet the Government revenue in times of adversity. Unfortunately his anticipations have not materialised. I rather think that the

hopes of Lord Cornwallis perhaps have not fully materialised, because those were hopes of economic character out and out; but the hopes of our Government have been fulfilled inasmuch as they have now found in that excellent class of men very agreeable friends in checking down the poor peasantry in these times of economic and political adversity. Sir, the *Government* wants to make the *zamindars* the chief executives of this Bill in the name of public peace and public security. With these few words, Sir, I want to exclude the agricultural rent from the provisions of the clause under discussion. If my suggestion be not accepted, I do believe, Sir, that the Bill instead of being a Public Security Bill will be turned into a Public In-security Bill.

(At 4-30 p.m. the Council was adjourned for prayer and it reassembled at 4-45 p.m.)

Mr. PRESIDENT: At this stage I should like to inform the House that I have decided to give my ruling, to-morrow, over the point of order that was raised by Mr. Basu. It relates to clause 19. So, that clause together with the final motion will be taken up and dealt with, to-morrow.

Mr. B. C. CHATTERJEE: Sir, the fat is on the fire. It seems that the Minorities Pact is melting away. Up till now the Minorities Pact has been working wonderfully smoothly.

Mr. PRESIDENT: On which motion are you speaking, Mr. Chatterjee?

Mr. B. C. CHATTERJEE: I am speaking on the motion of Mr. Mullick?

We have found our Muhammadan friends with some exceptions and our depressed class friends following tamely to the Government lobby in resolutions after resolutions. The present amendment is an intimation you are giving to the country that when you are in power in company with Mr. Thompson you will enforce all the provisions against the civil disobedience fellows without turning a hair. We have found that in respect of the provisions that have been passed the Muhammadans and depressed class members of this House have all along followed Government into their lobby.

Mr. PRESIDENT: What is your point? Will the acceptance of any of these motions prevent that?

Mr. B. C. CHATTERJEE: I shall explain in a minute, Sir, I am coming to that.

Mr. PRESIDENT: But I am afraid it will be a long minute and before it ends you will probably have said quite a lot. (Laughter.)

Mr. B. C. CHATTERJEE: When it comes to this little species of civil disobedience, namely, the no-rent campaign—we know that the no-rent campaign is a manifestation of the civil disobedience movement: we had it on a large scale in the United Provinces and in a smaller one in this province—when we come to the no-rent campaign, then my friends the Muhammadans and my friends the depressed class members part company with Government and Mr. Thompson.

Mr. H. S. SUHRAWARDY: That is not true.

Mr. B. C. CHATTERJEE: That may not be true of Mr. Suhrawardy. We will see how he votes. I say when the question of no-rent campaign comes they part company with both Government and the trinitarian agreement in so far as it is represented by the non-official Europeans. By the two amendments of Maulvi Hassan Ali and Mr. Mullick they are giving out that when they have the power the only kind of civil disobedience they will allow, and against which they will not apply this lawless law, is the no-rent campaign. If the tenantry go in for a no-rent campaign they have nothing to fear from the two-thirds of the coming government.

5 p.m.

I do not know what Mr. Suhrawardy is saying. I do not know why he is using these abusive words. I hope he will have the courage—Mr. Suhrawardy, who is talking of lies and that sort of thing will have the courage—to live up to this explanation by going into the right lobby. (A VOICE: Which is the right lobby?) Well; the right lobby is the lobby he should go to, according to the lies which he has been uttering so many times.

Mr. H. S. SUHRAWARDY: On a point of personal explanation, Sir. I did not use the word "lies" but the word "libel".

Mr. B. C. CHATTERJEE: Very well, but I think that coming events are casting their shadows before.

Mr. PRESIDENT: Mr. Chatterjee, the Council is going to be prorogued to-morrow and not to-day. Such a speech as yours should be on the last day. (Laughter.)

Mr. B. C. CHATTERJEE: Please bear with me, Sir, for just another minute. This is what has happened: we have now come to the point when our Muhammadan friends and our friends of the depressed classes must be finding out that it is not so easy to work the Minority Pact, and that they had better be with us, instead of being with the

gentlemen on the other side of the House. I would also ask the non-official Englishmen to beware of occasions like this, when they will find that it will be impossible for them to stick to the Minority Pact, if they at all want to follow the lead of their conscience. Therefore, Sir, I am very, very glad that an occasion has arisen to-day in the shape of this particular clause in the Bill and the two amendments that have been proposed, when we are able to show up the utter unreality of this purely mechanical union which my friends on the other side have been trying to form between themselves.

Mr. H. S. SUHRAWARDY: Mr. President, Sir. The Minorities Pact is not in existence, for I know that it was given a death blow when the Premier's Award varied it materially and left the Mussalmans in the lurch, and it was also undermined when Mr. Chatterjee's castemen gave 30 seats to the depressed community, whose existence he now denies, in the hope of capturing their co-operation.

The Hon'ble Mr. W. D. R. PRENTICE: May I rise to a point of order, Sir? I do not want to stop such an interesting discussion if it is only relevant. But what we are discussing now is whether an amount payable to any local authority or rent of agricultural land, or anything recoverable as arrears of or along with such rent, should be a notified liability. I would ask your ruling, Sir, as to whether all this discussion is relevant to the subject under discussion.

Mr. PRESIDENT: You are right, Mr. Prentice; but I have to give Mr. Suhrawardy some latitude in view of Mr. Chatterjee's speech. I am however watching—let me see how Mr. Suhrawardy developes his arguments.

Mr. H. S. SUHRAWARDY: After this preliminary, I was about to consider the other aspects of the question on which Mr. Chatterjee was dwelling. I hope, Sir, I have given a sufficient answer to Mr. Chatterjee, and I also hope that he will not fling about the Minorities Pact on the floor of this House even when there is no occasion for it. With regard to the question whether some of us will vote in what Mr. Chatterjee calls the right lobby to-day, and which for Mr. Chatterjee has until this issue always been the wrong lobby—I will not say anything. But I may say, and make it clear to Mr. Chatterjee and to those who might be impressed by his eloquence that so far as the no-rent campaign is concerned, we are averse to it, and the two-thirds of the future constitution will endeavour to suppress it in the same manner as the present Government is trying to suppress the civil disobedience movement in its various forms.

The question here is not a question of a no-rent campaign at all. The question here is whether agricultural rent should be considered a notified

liability, and whether or not, if a tenant is unable to pay his rent Government, urged by Mr. Chatterjee and his group, will compel him to pay, whether the hands of Government will be forced and whether Government will be compelled to hold that, although the tenant, as a matter of fact is unable to pay his rent on account of poverty, the rent is really not coming in in pursuance of a no-rent campaign. I can quite understand landlords approaching Government—landlords have still got a vast influence at the headquarters and in the district towns—landlords and *mahajans* approaching Government, I can quite understand; barristers, lawyers, pleaders, advocates who make their money out of the landlords and *mahajans*, approaching Government and telling them that the inability of the tenants to pay rent is not due to their paucity of funds, but because such and such persons have been participating in the no-rent campaign. We are afraid of that. We have got the firmest of faith in the stability of the agriculturists. We know that there are forces at work in the villages—communists and congress forces which have been trying to undermine the constitutionalism of the agriculturists—but fortunately they have failed. We know that the agriculturist, as such, is stable because he realises that he has got a certain stake in the land. When we find that he is being maligned before the Government and Government are being continually urged to believe that the *raiyats* have been captured by a no-rent campaign, when Government are being asked to suppress a genuine agriculturist movement through fear that its spread would undermine the privilege of the landlords, then we feel that Government should not be armed with such powers when it is liable to be influenced in this manner. If we had the confidence of Government we would certainly not object to it. I do not know whether the future Government will be very happy with the powers which the present Government intends to provide them with. On the other hand I think it will find itself considerably embarrassed, and I can quite imagine alarms and excursions and telegrams sent from the *mufassal* to the members in Calcutta should a Sub-Inspector of Police happen to enter a building which he should consider sacrosanct. I can quite imagine that the future Government will be considerably embarrassed by those who are likely to support it. As I have said, Sir, I do not know whether the future Government will be very happy with the powers now being entrusted to it, but certainly it will endeavour to use these powers to the best of its ability, supported as it will be by Mr. Chatterjee and his followers. (Mr. B. C. CHATTERJEE: No fear!) Nevertheless I feel that unless there is a genuine feeling on the part of Government and on the part of the Council that there is a likelihood of a no-rent campaign springing up in the country, I do not think that Government should arm itself with these powers at this stage.

The no-rent campaign, so far as Bengal is concerned, is still in the realm of the unknown, and we are not prepared to hold it up before the

Government as if it were a coming danger. The Bengali peasant is doing his best to pay when he can manage it. Take the recent instance of Sirajganj. Last year this place was devastated by the floods, and the people practically sold whatever they had—their ploughs, their cattle and even their homesteads for the purpose of keeping body and soul together. This year there was an adventitious rise in the price of jute. I believe some jute magnates, in order that they may be able to put up the price of hessian, bought small quantities of jute at a very high price, and the result of this was that the agriculturist was able to sell off a large stock of his jute at a very fair price. And as soon as he did so—I have it on the authority of the Pabna *zamindars*—the agriculturists began meeting their liabilities. Moreover when you say that it is agricultural rent which should be made a notified liability, to what are you alluding? Sir, any good district officer who knows his business will tell you that the rent roll of *zamindars* is in a hopeless mess, arrears of rent are shown coming down from time immemorial and can never be paid off. As a matter of fact very capable district officers are of opinion that if the *zamindars* want their rent to be realised and also want that the tenant should be induced to pay their rent, then they should revise their rent roll, so that the tenants may feel that they are discharging their liabilities and that there is some hope of their being able to pay off their rent arrears. But now they find that they are merely throwing away good money after bad. Sir, these are the difficulties which stand in the way of our supporting the Government on the question as to whether agricultural rent should be considered a notified liability or not. We are quite prepared to arm this Government or any future Government with powers as soon as we are satisfied that there is a likelihood of a no-rent campaign; but so long as we feel that the agriculturist is being maligned, and deliberately maligned, by the *zamindars* and *mahajans*, and there is a deliberate attempt made to hoodwink the Government into believing that there is a no-rent campaign in existence, while in fact it does not exist at all, we feel that if Government is armed with such powers it may be induced to consider a genuine agriculturist movement as something equivalent to, or in furtherance of, a no-rent campaign. That is our attitude, Sir. We are against a no-rent campaign and we on this side of the House will utilise all the influence that we happen to possess with the agriculturists to see that the no-rent campaign finds no footing in Bengal. Nevertheless we feel that at this stage there is no necessity whatsoever for Government to put it up as an imminent danger before the House, which it is necessary to meet by extraordinary legislation.

The Hon'ble Mr. W. D. R. PRENTICE: It may shorten the discussion on this particular clause if I rise now to point out that some of the apprehensions that have been expressed are entirely unfounded. In considering clause 26, we will certainly have this discussion over

again from another point of view, but at present the discussion is concerned with what we can declare as a notified liability. I would just like to draw your attention once again to the frame-work of this Bill. Chapter IV cannot come into force until it is introduced by the local Government by notification in the *Calcutta Gazette*. Supposing the Council passes this Bill, it will be on the Statute Book, but Chapter IV will not be in force anywhere. Chapter IV can only be introduced under clause 17(4) and the proviso there says "provided that the local Government shall not direct that any provision of this Chapter shall come into force in any area unless it is satisfied that by reason of a movement subversive of law and order a state of emergency has arisen, of such a kind that the existing powers of Government are inadequate for the maintenance of the public security," so before Government can even notify this Chapter as being applicable to any area, it has got to be satisfied that there is a movement subversive of law and order in that area and that a state of emergency has arisen in that area of such a kind that the existing powers of Government are inadequate for the maintenance of the public security. Mr. Suhrawardy has suggested that Government will act on telegrams from people who cannot collect their rent, and introduce Chapter IV in order to enable them to collect their rent. But surely the provisions of this clause make it perfectly clear that before Government can declare rent to be a notified liability there has got to be a movement subversive of law and order in the area concerned and there has also got to be a state of emergency.

5-15 p.m.

Until Government are satisfied of that, Chapter IV cannot be put into force. Well, if Chapter IV is to be put into force then the question is to what liabilities is it to apply. These have been specified in clause 23(2) as drafted.

Mr. Mukunda Behary Mullick's amendment would cut out the words "or to any local authority, etc." The effect of that will be that you cannot notify as a liability the taxes payable to a chaukidari union or to a union board. I do not know whether members of the Council will allow agitators to go about encouraging people not to pay chaukidari or union board taxes—I imagine they will not. In addition, Mr. Mullick and Maulvi Hassan Ali want to omit the words "the amount payable as rent of agricultural land or anything recoverable as arrears of or along with such rent." Mr. Suhrawardy says that in Bengal so far there never has been any no-rent campaign. Dr. Naresh Chandra Sen Gupta, on the other hand, says that in several places there has been a talk about it, but nothing serious has been done. So evidently a no-rent campaign has been under contemplation, and to the knowledge of one member of the Council at any rate there has been a talk about a no-rent campaign in some areas. We know from the

experience of some areas outside this province, that such a campaign can become very serious, and if there is a movement subversive of law and order in this province, it may very well take the form of a no-rent campaign and assume a serious aspect here too. I am not referring to the question whether rents payable to landlords in such cases are to be recoverable by certificate procedure; that will be discussed under clause 26(*1*). The point I make at present is that I do not suppose that Mr. Suhrawardy and his friends would be at all satisfied if people were allowed to go about encouraging their clients, the agriculturists, to join in such a no-rent campaign. Indeed I should think that they would be the last persons to give facilities for such agitators; their wish no doubt will be to run down the agitators and stop this agitation. (A VOICE: There is section 144.) Yes, if we used section 144, I can imagine the howls of objection there would be.

What we do by this clause is to take powers to declare rent as a notified liability and that makes the person, who preaches non-payment and runs this agitation, an instigator liable to be dealt with individually under clause 24. The effect of cutting these words out of clause 23(*2*) will be that the person who goes about disturbing the tenants and creating trouble that we all want to avoid, cannot be dealt with under clause 24, and I suggest that is not a desirable thing in Bengal. We ought to take precaution beforehand, more especially as we have been assured by Dr. Sen Gupta that such a movement has been under consideration. I suggest that it will be a complete mistake, whatever you may do with clause 26, to refuse us the powers of dealing with such instigators under clause 24, which will be the result of accepting these amendments to clause 23 (*2*).

The motion of Mr. Mukunda Behary Mullick was put and lost.

The motion of Maulvi Hassan Ali was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Nausher.
Baksh, Maulvi Syed Majid.
Dalp Babu Lalit Kumar.
Dal, Rai Sahib Sarat Chandra.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chaudhuri, Khan Bahadur Maulvi Ali-muzzaman.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Ezaufji, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Muhammad.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Momin, Khan Bahadur Muhammad Abdul.
Mookerjee, Mr. Syamaprosad.
Mullick, Mr. Mukunda Behary.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hemni.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sulaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammed.
Basu, Babu Jatindra Nath.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Bose, Mr. S. M.
Burn, Mr. H. N.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Nafizur Rahman
Chaudhuri, Maulvi Syed Osman Haider.
Chowdhury, Naji Badi Ahmed.
Cohen, Mr. G. J.
Coppinger, Major-General W. V.
Cooper, Mr. C. G.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sushi Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Law, Mr. Surendra Nath.
Leeson, Mr. C. W.
Maguire, Mr. L. T.
Mason, Mr. G. A.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Mukhopadhaya, Rai Sahib Surat Chandra.
Nag, Babu Suk Lal.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Petre, Mr. R. F.
Philpot, Mr. H. G. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Babu Nagendra Narayan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Babu Satish Chandra.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Ross, Mr. J.
Roy, Babu Haribansa.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Mr. B. R.
Sen, Rai Bahadur Jogesh Chandra.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 32 and the Noes 70, the motion was lost.

Mr. PRESIDENT: The question is that clause 23 stand part of the Bill.

The motion was put and agreed to.

5-30 p.m.

Clause 24.

Mr. PRESIDENT: The question before the House is that clause 24 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that in the first paragraph of clause 24, in lines 1 and 2, the words "or by signs or by visible representations" be omitted, and in line 3, the words "or by implication" be omitted.

This is a very wide power and also at the same time for very indefinite things a person or persons might be prosecuted and then punished with imprisonment.

(At 5-35 p.m. the Council was adjourned for prayer and it re-assembled at 5-45 p.m.)

The intention of the Government—I do not know what it is; but it is absolutely an impracticable thing that has been suggested in this clause "or by signs or by visible representations or by implications." I do not understand how these things can be visualised by any person or any witness. I do not see how these witnesses can be relied upon in an open court. I do not think that "signs or visible representations" can be accepted as evidence in court. One nods his head one way or the other and there are certain other diseases from which human beings suffer, such as St. Vitus's dance. If these things are implied by this clause, I am afraid every policeman although he may act *bona fide* may commit mistakes by misunderstanding the jerking of the head or of the leg as an indication given to certain persons. I do not understand how these can be worked practically. Of course the witness will have to run the risk of cross-examination and medical examination and the accused may get the chance of getting acquitted but still he will have to undergo a lot of trouble if he is arrested under this clause. Therefore I say that this clause is absolutely vague and indefinite and should not be retained. I, therefore, commend my motion to the acceptance of the House.

Maulvi ABDUL HAMID SHAH spoke in Bengali in support of the motion.

The following motions were called but not moved:—

Maulvi ABDUL KARIM to move that in the first paragraph of clause 24, in line 3, the words "expressly or by implication" be omitted.

Mr. ANANDA MOHAN PODDAR to move that in the first paragraph of clause 24, in line 5, after the word "liability" the following be inserted, namely:—

"of any rent of agricultural land or anything recoverable as arrears of or along with such rent,"

Mr. NARENDRA KUMAR BASU: I beg to move that second paragraph of clause 24 be omitted.

Lest any of the hon'ble members of the House might have forgotten what the beautiful language of the second paragraph is I propose to read it out: "and whoever does any act, with intent or knowing it to be likely that any words, signs or visible representations containing

such instigation shall thereby be communicated directly or indirectly to any person or class of persons, in any manner whatsoever," and then comes the penalty. Taking some of the words of the clause "whoever does any act, with intent or knowing it to be likely that any words containing such instigation shall thereby be communicated directly or indirectly to a person in any manner" will be liable to six months' imprisonment under this clause. I submit, a more beautifully vague and more drastic provision and uncertain provision cannot be thought of. A man does an act; that act contains no instigation but if it is construed by some other person to be a sign or visible representation and is indirectly communicated to such person as an instigation, you make that man liable to punishment. I was under the impression that penal law has got to be construed strictly and what you make an offence you ought to give the people sufficient notice that it is something that they ought to eschew if they want to avoid punishment. I think the House will consider this case: Suppose there is a meeting to discuss the provisions of the Tenancy Law and one of the speakers, while talking about a certain section relating to the payment of rent, says something about enhancement of rent when another man who is absolutely ignorant of the Bengal Tenancy Act and does not know what he is talking about takes it as an indirect instigation to him in some manner to avoid the payment of rent. Under section 24 the speaker is liable to be clapped into jail for six months. I submit, it is certainly not the intention of the legislature; it may be the intention of Government but I take it that the Legislative Council will not make a man liable to trial and to punishment for something which he never even thought of. We all know that when a man is brought up before the court the presumption is that he knew the natural consequences of his action or at least he knew what effect his act would produce in the mind of any person, but, Sir, the words in the clause are carrying the thing much too far. I think the meaning of the words "whatever may indirectly follow from a certain act of any person on the mind of another" should be made clear. I do not think that a piece of legislation like this should be on the statute book.

Dr. AMULYA RATAN GHOSE: I beg to move that in the second paragraph of clause 24, in lines 2 and 3, for the words "any words, signs or visible representations" the words "any words either spoken or written" be substituted.

This is more or less consequential. I formally move it.

The Hon'ble Mr. W. D. R. PRENTICE: I admit that the wording of this clause is wide and it is intentionally made wide in order to deal with the ingenuity of those against whom we have to struggle.

Mr. Basu used the word "vague" but I prefer the word "comprehensive" and I suggest that there is no real danger in this thing because the court will have to decide whether the offence has been committed. Mr. Basu referred to the question of knowledge or intention but he will find that in part two of the clause the following words have been put in "with intent or knowing it to be likely." The provision has been made comprehensive to meet the ingenuity of others. And, talking of ingenuity, I commend the suggestion of Dr. Amulya Ratan Ghose to the legal members of the Council. He, I am perfectly certain, has given them a new line of defence in such cases.

The motions of Dr. Amulya Ratan Ghose were put and lost.

The motion of Mr. Narendra Kumar Basu was then put and lost.

6 p.m.

Dr. AMULYA RATAN GHOSE: Sir, I beg to move that in clause 24, in the last line, for the word "six" the word "two" be substituted.

Sir, the intention of moving this amendment is that for any signs or any visible representation or implication one should not be imprisoned for such a length of time as six months. In such cases the punishment should be lenient and therefore I propose that instead of six months two months' imprisonment will be quite sufficient.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to oppose this motion. I think we are rather moderate in providing for a punishment of six months' imprisonment, as such signs or representations or implications might lead to very serious trouble.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Mr. PRESIDENT: The question is that clause 24 stand part of the Bill.

The motion was put and a division called.

Mr. PRESIDENT: Those who are supporting Mr. Roy will please raise their hands.

More than 10 members having raised their hands a division was taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Birkmyre, Mr. H.
Armstrong, Mr. W. L.	Blandy, Mr. E. N.
Austin, Mr. J. M.	Bose, Mr. S. M.
Bal, Babu Lalit Kumar.	Burn, Mr. H. H.
Basir Uddin, Khan Sahib Maulvi Mohammed.	Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
	Cohen, Mr. D. J.

Coppinger, Major-General W. V.
Cooper, Mr. G. C.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab K. G. M., Khan, Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. G. C.
Khan, Mr. Razaur Rahman.
Law, Mr. Surendra Nath.
Lesson, Mr. C. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Nag, Babu Suk Lal.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Ordish, Mr. J. E.
Petre, Mr. S. P.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Khetter Mohan.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Rose, Mr. J.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Ray, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Roy Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Mr. S. R.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. N. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. S. C.
Chaudhuri, Babu Kisheri Mohan.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Faziullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Kazi Emdadul.
Maiti, Mr. R.
Mukhopadhaya, Rai Sahib Sarat Chandra.
Mullick, Mr. Mukunda Behary.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Nosoni.
Ray, Babu Haribansa.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 62 and the Noes 23 the motion was carried.

5-15 p.m.

New clause 24A.

The following motion was called but not moved:—

Rai Bahadur Dr. HARIDHAN DUTT to move that after clause 24, the following be inserted, namely:—

"24A. Whoever having means to pay refuses to pay or does not pay wilfully any notified liability in pursuance of the instigation aforesaid shall be punishable on conviction with a fine not exceeding twice the amount of such notified liability. Penalty for non-payment of notified liability.

The special magistrate shall order that the person entitled to receive such notified liability shall receive his dues in full or in part as the case may be, out of the fine, if realised."

Clause 25.

The following motion was called but not moved:—

Maulvi ABDUL HAKIM to move that in clause 25, in the last line, for the word "sub-inspector" the word "inspector" be substituted.

Mr. PRESIDENT: The question is that clause 25 stand part of the Bill.

The motion was put and agreed to.

Clause 26.

Mr. PRESIDENT: The question before the House is that clause 26 stand part of the Bill.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I beg to move that in clause 26 (*1*), in lines 2 to 4, the words "other than rent of agricultural land, or anything recoverable as arrears of or along with such rent" be omitted.

I now come to the question of the action that can be taken, supposing as the result of this movement, there is a no-rent campaign—I am using no-rent as a short phrase for the words "other than rent of agricultural land, or anything recoverable as arrears of or along with such rent". The Select Committee has put in those words, the effect of which will be that even if there is a movement subversive of law and order no action can be taken under the Certificate Act to collect the rent of agricultural land or anything recoverable as arrears of or along with such rent. From the speeches we have already heard in the Council, it is perfectly apparent that this is due to an apprehension that this Bill, if it becomes law, will be used for the harassment of agricultural tenants who, owing to poverty or hard times, are unable to pay rent when due. May I with your permission, Sir, move also my amendment, No. 93, and make one speech

Mr. PRESIDENT: Yes, you may do that.

The Hon'ble Mr. W. D. R. PRENTICE: I also beg to move that in clause 26 (*1*), in line 6, after the words "is due" the words "and that non-payment thereof is the result of a movement subversive of law and order" be inserted.

But that is not the intention of Government at all. The sole intention of Government is that we should have power to deal with

this movement when there is a deliberate refusal to pay rent by the people who can pay; that is the real object of the clause. There is no intention on the part of Government to use this Bill for the purpose of forcing the people who really cannot pay, to pay the amounts that may be due. I have already drawn attention to the circumstances under which this Chapter (Chapter IV) can come into force and I have stressed the fact that it cannot come into force until there is a situation arising out of a movement subversive of law and order. Therefore the interpretation placed on this proposal is entirely outside the intentions of Government. At the same time we realise, as I have already said, that although a no-rent campaign has not taken place in Bengal in any serious form yet it is under consideration according to one of the members of this Council and we know from experience elsewhere that the civil disobedience movement might quite easily take that form. We, therefore, think that it would be entirely wrong to leave Government without any power to deal with an agitation which might take that form. At the same time we recognise that we ought to go as far as possible to remove the apprehensions felt by certain members of this Council, that in spite of the intention of the Government which is introducing this Bill, some future Government, or this Government at some future date, may drop all its just intentions and use the powers given to it to oppress the tenants. Sir, my amendment falls into two parts; we propose to omit those words which the Select Committee has inserted and propose to insert the words "and that non-payment thereof is the result of a movement subversive of law and order" in line 6 of clause 26. The effect of that will be that there will be a double protection for the tenant. In the first place Government will not bring this Chapter into force in any area until there is a serious emergency arising from a movement subversive of law and order—that is condition precedent to Chapter IV coming into force. We have also inserted an additional security by requiring the Collector to act as in my second amendment No. 93. The Collector will then be responsible for seeing that any application that is made to him for the use of these special powers is in connection with arrears which are due to this movement and not to those arrears of rent outstanding from time immemorial, to which Mr. Suhrawardy referred, or arrears of rent due to other causes which may be absolutely and entirely separate from a movement subversive of law and order. The Collector will have to be satisfied that the arrears for which certificates are asked are due to a movement which has led to the introduction of this clause. I suggest that these safeguards are an ample protection to the tenants against such claims as are referred to by Mr. Suhrawardy, and I would ask the House to accept these two amendments.

Mr. SHANTI SHEKHARESWAR RAY: Mr. President, Sir, I must oppose this amendment, moved by the Hon'ble Member in

charge of the Bill. There is no no-rent campaign in Bengal. As a matter of fact the Indian National Congress has discountenanced any movement advocating non-payment of rent to the zamindars. Under such circumstances it will be very injudicious and unstatesmanlike to introduce a legislation connected with the payment of rent by tenants. As we all know, at present a struggle is going on between two forces in the country: on the one hand, there is the bureaucracy, and on the other hand, there is the nation, struggling to find an expression in the administration of the country by acquiring a controlling hand. Sir, when this struggle is in progress, naturally the bureaucracy and the supporters of the bureaucracy are doing all they can to checkmate the efforts of the national leaders. In this position they are trying to get the support of the natural leaders of the people in this province to their side by showing them some illusory support in the matter of collection of rent. If the *zamindars* of Bengal are wise, I am sure they will reject such approaches. I may submit, Sir, that the Government have succeeded to a certain extent in frightening some of the *zamindars* in Bengal into supporting this measure: but I may tell my brother *zamindars* in this Council that they should be very careful before they allow themselves to be drawn into the spider's web. They must realise what is going to come. There ought to be no doubt about the result of the struggle. The nation is sure to win and the bureaucracy is sure to go down. The days of foreign domination are over. The *zamindars* should identify themselves with national interests if they are to keep their position. After all they depend upon the goodwill of their tenants and any amount of support that the Government may try to give by such illusory methods and by such legislation will count for nothing.

Mr. PRESIDENT: But what are your grievances with regard to the clause itself?

Mr. SHANTI SHEKHARESWAR RAY: I want to oppose this clause and my grounds are that the *zamindars* should not support it on the grounds I am stating.

Mr. PRESIDENT: But you have not stated any grounds as yet

Mr. SHANTI SHEKHARESWAR RAY: Sir, I have stated my grounds and they are that it is not in the interests of the *zamindars* to support this amendment.

6-30 p.m.

Sir, I know from personal experience that if a body of tenants refuse to pay their rent, you cannot realise it by any means—either by the certificate procedure or treating it as a notified liability, and in that case something more effective will be necessary. But I am afraid, Sir, no *zamindar* in Bengal will welcome the prospect of collecting rents at the point of bayonet. Sir, my position is that I appeal to Government not to involve the *zamindars* in it when introducing this Bill. Sir, I am glad that the Select Committee approved of my suggestion in this respect and deleted a portion of the clause in connection with tenants, but by the addition of certain words subsequently, the intention of the Select Committee is being frustrated. Sir, I have tried my best to put up the case of the *zamindars* as best as I am able to do that, but, Sir, in conclusion I would only point out that in making this provision Government are going out of their way and throwing an unnecessary challenge to the tenants who constitute the nation. Are not the hands of the Government already full?

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, I am afraid we must oppose this amendment which is the first amendment of the Hon'ble Mr. Prentice. I should like to ask the Hon'ble Mr. Prentice whether he has forgotten the days when he was the Subdivisional Officer of Meherpur—when there were agrarian troubles in that subdivision. I should like to know what would be the position, if there is the same movement again, and if landlords and officers of Government take advantage of this particular section.

A friend of mine—an important member, Sir—was asking me as to whether there remains anything else for the Government to be empowered with. So far as this clause is concerned, we find that a very salutary provision which we in the Select Committee put in, is being set at nought. But I would ask the Hon'ble Mr. Prentice one simple question, Sir. Suppose a civil disobedience or no-rent campaign is started when the rent liability of the tenants is already for about three years, as is generally the case: will the Hon'ble Mr. Prentice in such a case issue certificate for all these three years? May I ask, Sir, to make my position perfectly clear: how far the no-rent campaign affects the non-payment of rent on the part of the tenants? Will Mr. Prentice extend the operation of the certificate to the full term; and if not, to what extent? If it operates longer than that during which the civil disobedience movement has been in existence, if the civil disobedience movement was started two months ago, and if the Hon'ble Mr. Prentice wants to collect full one year's rent by the certificate procedure, certainly it would be wrong on the part of the Hon'ble Mr.

Prentice to do so. The difficulty, therefore, is that because the civil disobedience movement started at a particular place, say, only a month ago, you are taking power to help the landlord with the collection of his rent to the fullest extent admissible under the Public Demands Recovery Act. I do not know to what extent the Public Demands Recovery Act permits you to collect the arrear liability, but I do take it that it is for one year or two years or three years. Whatever might be that period, you are going much beyond that for which liability is actually due. Are you not thus jeopardising the whole position of the tenants not only in their relationship with the landlords but also with the Government.

What will be the effect, Sir, if I go to villages and say—"Here is a vicious, foreign, bureaucratic Government with no sympathy for the people, taking an instrument by which they are collecting rent not for 15 days only, but for three years, two years or one year, as the case may be". I think that will carry contagion. After all, the Hon'ble Mr. Prentice knows that in these days it is not speeches that count, but rumours also spread in villages like anything. If once a movement starts in a Bengal village by which the tenantry is affected and is rendered discontent, then, in spite of the placid laws you are promulgating to control the civil population of the country, I do submit in all seriousness, Sir, it would be a most dangerous thing for the Government to deal with. It may be desirable, Sir, to punish the tenants in such a case, but it will be more politic to avoid it if you possibly can.

Sir, you have already had enough troubles in the country, and I do beseech you not to create more troubles by disturbing the tenants, but to try to keep them in good spirits, who are to be the mainstay of the country in future. We hope and trust that you will not go beyond your limit and render the whole tenantry in Bengal discontent. As I have already said, Sir, it will carry contagion.

I think the Hon'ble Mr. Prentice is aware that some years ago, certain form of no-rent campaign was started, but that was checked, and the landlords did collect their rents to the fullest extent: no certificate procedure was necessary and no extraordinary power was taken.

Sir, if later on the situation becomes so dangerous that it will not be possible to control it, if the landlords are not able to make proper collection of rents and meet their demands, and if the Government do not get their revenue properly, then and in that case only, to meet the situation, the Hon'ble Mr. Prentice will be quite justified in calling a special session of this Council and asking us to pass a legislation of this nature.

After all, Sir, we have always been pliable enough to pass such legislations which go very deep enough, and we have done so in spite of public opposition and criticism. We have given enough power to Government, and this power, in my opinion, is quite unnecessary at the present moment. I feel, Sir, that Government ought to meet us half way and postpone this matter till a situation arises when this power should be given to Government.

Sir, we are perfectly satisfied with regard to the intention of Government. I am not here to question it. But I do feel that it is quite possible that there might be a misuse of power by those who are to execute the orders of Government. I do feel considerable nervousness, Sir, when I find that this power is to be exercised in the *mufassal* districts by officers of the type of subdivisional officers and others. In that view, Sir, it is in the interest of Government and it is in the interest of the people as well, that this clause, even if it is considered necessary, should be left over till an emergency arises justifying the necessity for a legislation of this nature.

Dr. NARESH CHANDRA SEN GUPTA: By the introduction of this amendment I think Government is trying to do what I can only characterise as a cruel kindness to the *zamindars*. To start with, Sir, I shall reiterate that there is at the present moment no no-rent campaign and for the matter of that no situation which justifies the apprehension that special powers will be taken in order to realise rent. There is no doubt that there have been cases of non-payment of rent and this is because the tenants have no money to pay the rent. But, I say, there is no no-rent campaign of the sort which is visualised by this amendment. Mr. Prentice has referred more than once to what I stated in my speech a little while ago. I do not remember having said that there has been a no-rent campaign in some parts of the country. I said there have been some attempts to induce people not to pay rents, but those attempts have failed; and I suggested further that those who are in charge of the civil disobedience movement in this province have been very tender to the landlords and systematically discouraged any no-rent campaign. Under these circumstances, as Khan Bahadur Azizul Haque said, there is no occasion for bringing in this amendment at the present moment. But apart from that, assuming that the situation exists, what does it propose to give to the landlord? I think it does not give much benefit—the advantage is very little: it only enables them to realise rent by the certificate procedure and for that I think no legislation was needed. The Government may in a deserving case without any fresh legislation give that help to a *zamindar* who finds it difficult to realise rent, provided that they are satisfied that the *zamindar* concerned does not indulge in illegal exaction by the certificate procedure. The *zamindars*, I repeat, have

nothing to gain from it. On the other hand, the loss as a consequence that will follow will be disastrous to them; and I speak this with a full sense of responsibility and as a representative, though I cannot claim to be one of the *zamindars* but, of small landholders, the class to which I belong. What would be the position of a small landholder who lives on the rents received from a few tenants, if he wants to have recourse to this procedure in times of emergency, and if civil disobedience movement or no-rent campaign or whatever else it may be is restored to the position of small landholders will be precarious.

6-45 p.m.

That would be the position of the small landholders and you must remember that the landholders of Bengal are not all big landholders like my friends the Maharaja of Kasimbazar or the Raja Bahadur of Nashipur and others whom I see before me. But the great bulk of *zamindars* and *talukdars* in Bengal belonging to the class of small landholders who will be very badly hit if they have the folly to take recourse to these extraordinary measures which are associated with the repressive activitives of Government for the purpose of realising rents. That is to say, for a little temporary advantage they would be bartering away their real security which consists in the good will of the tenantry. The advantage that this clause seeks to give to the *zamindars* is very inconsiderable and the injury caused to them would be tremendous. They will lose the good will of the people. That is what the Government propose to do.

The only way in which this clause differs from the ordinary procedure is that the landholders under this clause would be entitled to apply to the Collector to realise the rent by certificate although his accounts may be in a most topsy-turvy form. Before a *zamindar* is given the power to realise rents by certificate procedure, at present, it is necessary that there should be a record-of-rights prepared and if the record-of-right was prepared long ago it has got to be maintained up to date so that there can be no reasonable doubt about the accuracy of the claim of the *zamindar*. This provision has been made for the maintenance of the record-of-right so as to ensure that a proper demand must be made out before the right to realise rent by certificate procedure is granted to the *zamindar*. But this clause wants to give to every *zamindar* the right to realise what rent he claims but not what rent has been found by a proper record-of-rights to be really his due. In spite of his friendship for his *zamindars*, in spite of his sympathy for the *zamindars* in their imagined distress in the face of the subversive movement, Mr. Prentice cannot be ignorant of the fact that all *zamindars* have not got a clean record to show in the matter of realisation of rents and rents are realised by many *zamindars* which are not

legally realisable and which no settlement officer will ever record in the record-of-rights. In spite of that such *zamindars* would be given the power to realise the rent. But what would be the result? Even under the certificate procedure there is room for considerable amount of litigation, if there is dispute with regard to rent or with regard to the right of the landlord. Suppose such a landlord who has not got a properly maintained record-of-rights applies for realisation of rent which he says is due to him, it is open to the tenant to show that the rent is not due and if that rent is not due he can go to the civil court. How does it help the landlord? If a landlord is given the power to realise the rents by certificate procedure and there is no properly maintained record-of-rights in his favour there will be a lot of litigation. Therefore it does not help him. So far as regards the benefit it gives to the landlords who cannot get the certificate procedure in the ordinary way, it is absolutely useless. Having regard to this I should warn the *zamindars* not to be lured to accept this amendment of Mr. Prentice by the apparent benefit that he seeks to confer upon them. I should think that the benefit counts for very little. Mr. Prentice has emphasized that this provision will come into operation only in the case of extreme emergency. He has more than once referred to clause 1 of the Bill which lays down that the local Government will not extend this Chapter to any area unless they are satisfied that a state of emergency has arisen. He does not refer to the other clause, clause 13, under which the local Government may invest the District Magistrate with the powers of a local Government under section (*1*) of section 4.

The Hon'ble Mr. W. D. R. PRENTICE: Under section (*1*) of section 4?

Dr. NARESH CHANDRA SEN GUPTA: I am sorry I was not correct. Even if that emergency arises and even if the Government are satisfied with the demand, even then I submit that the benefit which this clause seeks to confer on the *zamindars* is nothing; on the other hand it will be driving a wedge between the *zamindar* and his tenants. Thus Government will be causing a permanent source of trouble from which the *zamindars* will not be saved after the emergency is over by any emergent legislation.

Mr. W. H. THOMPSON: May I ask the Hon'ble Mr. Prentice a question with regard to this amendment? In amendment No. 93 he proposes to add the words "that non-payment thereof is the result of a movement subversive of law and order", that is to say, if the non-payment of the rent is the direct result of the no-rent campaign. Can

he give us an assurance that the Collector in interpreting these words would not issue a certificate in any case for a period of more than one year and that certificate for a lump sum for one year's arrear rent would be the maximum?

The Hon'ble Mr. W. D. R. PRENTICE: I am afraid I never imagined that people would think that Government would use this as an opportunity for enabling the *zamindars* to collect all arrears outstanding at the time of the no-rent campaign. My idea was pretty well what Mr. Thompson said, only I would not go as far as he proposes. To my mind the amount recoverable would depend very much upon the *kist* normally due at the time the movement started. If a four annas *kist* was payable then I should expect the Collector to issue a certificate for four annas only; if it was a six annas or eight annas *kist* the certificate would be for that amount. There is no intention on our part of making this movement an occasion of issuing certificates so that the landlords may collect all outstanding rents due to them before the movement started. I can give that assurance to the Council and I am perfectly willing to issue instructions on these lines. If I may do so I should like to refer to what Khan Bahadur Azizul Haque has referred to, in my experience as the Subdivisional Officer of Meherpur. I think I know to what he is referring and if I am correct in my guess, then I am perfectly certain that that is exactly the sort of case in which the Collector would not issue a certificate.

Mr. H. S. SUHRAWARDY: The Hon'ble Member has said that the Collector will probably only issue a certificate for four annas *kist* that is due. In that case anything recoverable as arrears of rent becomes a permanent arrear and the other *kists* will remain overdue.

The Hon'ble Mr. W. D. R. PRENTICE: The point is that as a rule what is collected is credited to arrears and not to current.

Mr. PRESIDENT: The question before the House is that the question be now put.

The motion was put and a division taken with the following result:—

AYES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.	Birkmyre, Mr. H.
Ali, Mr. Altaf.	Blandy, Mr. E. N.
Armstrong, Mr. W. L.	Bose, Mr. S. M.
Basir Uddin, Khan Sahib Maulvi Mohammad.	Burn, Mr. H. H.
	Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.

Cohen, Mr. D. J.
Coppinger, Major-General, W. V.
Cooper, Mr. H. C.
Das, Rai Bahadur Kamini Kumar.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Susil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. C. C.
Law, Mr. Surendra Nath.
Leeson, Mr. C. W.
Maguire, Mr. L. T.
McCluskie, Mr. E. T.
Mitter, the Hon'ble Sir Provash Chunder.
Mittra, Babu Sarat Chandra.
Nag, Babu Suk Lal.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Norton, Mr. H. R.
Ordish, Mr. J. E.
Petre, Mr. E. F.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. M.
Raheem, Mr. A.
Rai Mahasai, Munindra Deb.
Ray, Babu Khetter Mohan.
Ray, Maharaja Jagadish Nath, of Dinajpur.
Ray Chowdhury, Mr. K. C.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Babu Haribansa.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Ray, the Hon'ble Mr. Bijoy Prasad Singh.
Ray Choudhuri, Babu Hem Chandra.
Sahana, Babu Satya Kinkar.
Sen, Mr. B. R.
Sen, Rai Bahadur Jogesh Chandra.
Sen, Rai Sahib Akshoy Kumar.
Sinha, Raja Bahadur Bhupendra Narayan, of Nashipur.
Stapleton, Mr. H. E.
Thompson, Mr. W. H.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Ali, Maulvi Hassan.
Ali, Maulvi Syed Naus.....
Baksh, Maulvi Syed Majid.
Bal, Babu Lalit Kumar.
Banerji, Mr. P.
Chaudhuri, Babu Kishori Mohan.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Eusufji, Maulvi Nur Rahman Khan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Haque, Khan Bahadur Maulvi Azizul.
Hoque, Kazi Emdadul.
Hossain, Maulvi Muhammad.
Huq, Mr. A. K. Fazl-ul.
Kasem, Maulvi Abul.
Khan, Khaw Bahadur Maulvi Muazzam Ali.
Khan, Mr. Razaur Rahman.
Maiti, Mr. R.
Momin, Khan Bahadur Muhammad Abdul.
Mullick, Mr. Mukunda Behary.
Rahman, Maulvi Azizur.
Ray, Babu Amulyadhan.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hoseni.
Samad, Maulvi Abdus.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.
Sofaiman, Maulvi Muhammad.
Suhrawardy, Mr. H. S.

The Ayes being 61 and Noes 32, the motion was carried.

The motion that in clause 26 (*1*), in lines 2 to 4, the words "other than rent of agricultural land, or anything recoverable as arrears of or along with such rent" be omitted, was put and agreed to.

The motion that in clause 26 (*1*), in line 6, after the words "is due" the words "and that non-payment thereof is the result of a movement subversive of law and order" be inserted, was then put and agreed to.

The following motion failed:—

Mr. ANANDA MOHAN PODDAR to move that in clause 26 (*1*), in line 2, for the words "other than" the words "or any" be substituted.

Mr. PRESIDENT: The question before the House is that clause 26 as amended stand part of the Bill.

The motion was put and agreed to.

Adjournment.

The Council was then adjourned till 3 p.m., on Friday, the 16th December, 1932, at the Council House, Calcutta.

Proceedings of the Bengal Legislative Council assembled under the provisions of the Government of India Act.

THE COUNCIL met in the Council Chamber in the Council House, Calcutta, on Friday, the 16th December, 1932, at 3 p.m.

Present:

Mr. President (the Hon'ble Raja Sir MANMATHA NATH RAY CHAUDHURI, KT., of Santosh) in the Chair, the four Hon'ble Members of the Executive Council, the three Hon'ble Ministers and 96 nominated and elected members.

STARRED QUESTION

(to which oral answer was given)

Depressed class.

*235. **Raja BHUPENDRA NARAYAN SINHA Bahadur, of Nashipur:** (*a*) Will the Hon'ble Member in charge of the Revenue Department be pleased to state what is the meaning conveyed to the Local Government by the words "depressed class" as used by the Premier in the declaration of the Communal Award?

(*b*) Will the Hon'ble Member be pleased to lay on the table a statement showing the different castes among the Hindus of Bengal, which will be included under the head of "depressed class" as mentioned in (*a*)?

MEMBER in charge of REVENUE DEPARTMENT (the Hon'ble Alhadj Sir Abdelkerim Ghuznavi): (*a*) Depressed classes have not been defined in the Communal Award or in the Poona Pact.

(*b*) As the position of certain castes is still under consideration it is not yet possible to publish an authoritative list.

Mr. NARENDRA KUMAR BASU: May I be permitted to inquire when the Hon'ble Sir Abdelkerim Ghuznavi took charge of the Revenue Department? As far as I see from the question, it is addressed to the Hon'ble Member in charge of the Revenue Department.

Mr. PRESIDENT: That is all right. This concerns Census which is under the Hon'ble Sir A. K. Ghuznavi.

Maulvi ABUL KASEM: Will the Hon'ble Member be pleased to state if the Santhals have taken possession of the Adina mosque?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: That question hardly arises.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state whether it is not a fact that in Bengal under the rulings of the Calcutta High Court all Sudras including Kayasthas and others belong to the same caste of the great Hindu religions and that inter-marriage between Kayasthas and other castes is valid?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Mr. Chatterji just mentioned that to me.

Mr. NARENDRA KUMAR BASU: Will the Hon'ble Member be pleased to state if the Local Government in its classification will be prepared to pay any heed to the rulings of the Calcutta High Court?

(No answer.)

Mr. NARENDRA KUMAR BASU: Sir, the Hon'ble Member has not answered the question.

Mr. PRESIDENT: I think the Hon'ble Member does not want to answer the question or he is ignorant of the rulings referred to.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I was going to speak to the Hon'ble President that I did not think that this question arose.

Mr. PRESIDENT: I allow the question if the Hon'ble Member is prepared to answer it.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I can inform the hon'ble member that Government is always prepared to pay heed to any such ruling so far as it is relevant to the matter under consideration.

Mr. B. C. CHATTERJEE: Will the Hon'ble Member be pleased to state whether it is not the principle behind the classification that those who are outside the *jalchal* Hindus are to be considered depressed classes?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I am inclined to refer the questioner to answer (*b*).

Reverend B. A. NAG: Will the Hon'ble Member be pleased to state if the people of the depressed classes, as soon as they become Christian, cease to be members of the depressed classes? (Laughter.)

(No answer.)

Khan Bahadur MUHAMMAD ABDUL MOMIN: Will the Hon'ble Member kindly say whether or not the Lothian Committee gave indication as to who were to be considered as belonging to the depressed classes?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: They stated certain criteria which in their opinion should be followed in classifying depressed classes.

Khan Bahadur MUHAMMAD ABDUL MOMIN: Are the Government of Bengal going to follow the line indicated by the Lothian Committee?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: I have already referred one questioner to answer (*b*) and I am afraid I have to do the same again.

Mr. B. C. CHATTERJEE: Will the Hon'ble Member be pleased to state if the Government follows any particular principle at all or has followed any principle at all up to date in declaring certain classes of persons as belonging to the depressed classes?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: Government have certainly tried to follow certain principles.

Mr. B. C. CHATTERJEE: What are those principles?

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: That will be apparent when the decision of Government is announced.

Mr. B. C. CHATTERJEE: My question is what principle has the Government followed? The Hon'ble Member says it will appear later on.

The Hon'ble Alhadj Sir ABDELKERIM CHUZNAVI: If you will allow me, I shall repeat what is stated in answer (*b*)—as the position of certain castes is still under consideration, it is not yet possible to publish an authoritative list. That means that when the decision is published it will be apparent what the principle followed is.

Mr. B. C. CHATTERJEE: But I want to know what principle has been followed up till now in classifying certain people as belonging to the depressed class.

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Well, that will take us many many years back and I must ask for notice.

Mr. SHANTI SHEKHARESWAR RAY: Will the Hon'ble Member be pleased to state if Government is prepared to appoint a committee to advise them in the matter?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: No.

Dr. NARESH CHANDRA SEN GUPTA: Is it not a fact that the Government furnished a statement to the Lothian Committee in which the exact number of the members of the depressed classes was stated and is the Government prepared to stand by that statement or not?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Government submitted a provisional list to the Lothian Committee.

Babu JITENDRALAL BANNERJEE: Will the Government consult the *pundits* and leaders of the Hindu society before finally deciding this question?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Gladly.

Babu JITENDRALAL BANNERJEE: Have they taken any steps up till now for the purpose of ascertaining such opinion?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes.

Babu JITENDRALAL BANNERJEE: May I ask whom they have consulted?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I am not prepared to answer that question.

Babu JITENDRALAL BANNERJEE: Will the disclosure of names be against public policy?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: This matter is still under consideration and, therefore, I have nothing to add to the answer.

Khan Bahadur Maulvi AZIZUL HAQUE: Will the Hon'ble Member be pleased to state if it is the intention of Government to publish the principle followed when it publishes the list of depressed classes?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I should be inclined to request the hon'ble member to hold his soul in patience.

Khan Bahadur Maulvi AZIZUL HAQUE: That is no answer to my question, though it might be honorary advice without brief. I want to know whether the principles followed will be published when the list is published.

The Hon'ble Alhadj Sir ABDELKERIM GHUZHAVI: Government will certainly publish its decision.

Khan Bahadur Maulvi AZIZUL HAQUE: But will they publish the principle on which the decision is arrived at?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I cannot say that now.

Mr. A. K. FAZL-UL HUQ: Will the Hon'ble Member be pleased to state whether it is proposed to consult the representatives of the depressed classes in this Council as to who should be classed as members belonging to those classes?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: Yes.

Babu AMULYADHAN RAY: Will the Hon'ble Member be pleased to state whether the *pundits*, whose opinion is recommended by Babu Jitendralal Bannerjee to be obtained, are not against the interest of the depressed classes? (Laughter.)

(No answer.)

Mr. B. C. CHATTERJEE: Is the Hon'ble Member aware of the principle of classification given by Mr. Mullick to the Lothian Committee and published in its report?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I have read it with much interest.

Mr. B. C. CHATTERJEE: Is the Hon'ble Member agreeable to abide by that principle?

The Hon'ble Alhadj Sir ABDELKERIM GHUZNAVI: I must make the position of Government clear. We are not prepared to make any detailed statement at the present moment.

GOVERNMENT BILLS.

(The discussion on the Bengal Public Security Bill, 1932, was then resumed.)

Clause 27.

Mr. PRESIDENT: The question before the House is that clause 27 stand part of the Bill.

Dr. AMULYA RATAN GHOSE: I beg to move that in clause 27, in the last line, the word "non-bailable" be omitted.

Sir, the civil disobedience prisoners are certainly not of such a class that when they are arrested, no bail should be granted to them. Even in the worst criminal cases the accused persons are allowed bail and when such accused persons do get the privilege of bails, there is no reason why these people, who are known as civil disobedience-*wallas*, should not get the same privilege when they are arrested for certain reasons or other, and with this object in view I move the amendment standing in my name.

MUNINDRA DEB RAI MAHASAI: I beg to support the amendment of my friend Dr. Ghose. The law which this House is going to enact is a lawless law. This Bill rests on the bare principle of belief or rather suspicion. The powers which are being taken are arbitrary. The punishments provided for disobedience of arbitrary orders are extraordinary. Imprisonment of one year for frivolous offences is no joke. To make the offence non-bailable is astounding. Even in more serious offences bail is allowed. This is negation of justice and fair-play. Under British jurisprudence, a person should be considered innocent until he is proved to be guilty. You arrest a man under suspicion, but you refuse to give him bail. This is most unfair. I should, therefore, ask the Home Member to kindly think over the serious consequences of such drastic action and agree to the amendment proposed by Dr. Ghose.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I regret I must oppose this amendment, not because we desire to refuse bail to every person who is arrested under this Bill if it becomes law, for I think the lawyer members of this Council will admit that it does not matter whether an offence is declared bailable or not, because as a rule bail is allowed when it can be allowed. But the difficulty is that if you declare an offence to be bailable, it means that the courts are bound to give bail if it is applied for; they will be bound to let an agitator, whom we may have arrested after a certain amount of trouble, out on bail. We do

not think we should deprive ourselves of the power of opposing bail in a case in which bail should not be granted and I, therefore, oppose the amendment.

The motion of Dr. Amulya Ratan Ghose was put and lost.

Clause 27A.

Mr. S. M. BOSE: On a point of order, Sir. This Council has no authority to take into consideration clause 27A, because, as we all know, it has no power to change or alter an Imperial Act. Under sections 106 to 111 of the Government of India Act, which is an Imperial Act, certain powers have been given to the High Court, and this clause seeks to abrogate, alter or modify those powers. On this ground I submit it is *ultra vires* for the Council to consider this clause.

3-30 to 3-45 p.m.

Mr. PRESIDENT: Clauses 19 and 27A raise practically the same point, namely, barring the jurisdiction of the High Court. Any ruling that I may give in regard to the point of order which Mr. N. K. Basu raised yesterday with reference to clause 19, will also govern Mr. S. M. Bose's point of order. Let me tell the House that I did not dispose of Mr. N. K. Basu's point of order then and there, because it occurred to me that a properly-worded *Explanation*, if added to clause 19, might effectively remove the doubts that appear to exist with regard to the validity of that clause. I thought that it would be expedient to draft such an explanation during the first prayer adjournment and to ascertain the views of the Hon'ble the Home Member in respect thereof. I did so and the Hon'ble Mr. Prentice, I must tell the House, paid the fullest possible attention to my suggestion; but he requested that the matter might be taken up the next day. I naturally agreed to give him some time to think it over and I informed the House accordingly, after we reassembled after the first prayer adjournment yesterday. I may say at once that when Mr. N. K. Basu raised his point of order, I was sure in my mind that the clause under review, as drafted, could not take away the jurisdiction of the High Court. It is beyond the shadow of a doubt that the local legislature possesses no power to bar, or in any way restrict, the jurisdiction of the High Court; even if there is anything in the clause which may appear to affect the jurisdiction of the High Court, it is null and void. I might draw the attention of the House to section 80A(*1*) of the Government of India Act and to the first of the two new paragraphs which were inserted after sub-section (*c*) of section 84 of the same Act. These clearly support the view that I have taken in the matter; but, having regard to the fact that the words which have actually been employed in framing the clauses appear to be rather elastic and ambiguous, I hold that explanations like the ones I am now going to suggest should be added to the two clauses in

order to remove any doubt that there may be. The Hon'ble the Home Member cannot possibly have any objection to add to the two clauses something like this—

"Nothing in this sub-section shall affect the jurisdiction of the High Court unless such jurisdiction is otherwise barred by a competent authority."

If this is done, it should satisfy the two Hon'ble Members who have raised the points of order, apart from the question of the intrinsic value or merits of the two clauses. The Hon'ble the Home Member, on the other hand, should realise that it is the intention of the Government, if I have understood the meaning of the two clauses aright, to bar only the jurisdiction of courts under the administrative control of Government other than the High Court. If he is prepared to add to the clauses an explanation like the one I have suggested, I shall not disallow them as *ultra vires*.

The Hon'ble Mr. W. D. R. PRENTICE: I recognise, Sir, that it is the duty of the Government to clear up as many difficulties as possible, and I am willing to do all I can to remove the difficulties that have been pointed out. I would suggest that to clause 19(2) the following words be added: "provided that nothing in this sub-section shall affect the jurisdiction of the High Court" and to clause 27A the following words "provided that nothing in this section shall affect the jurisdiction of the High Court." That ought to make things perfectly clear. But I would also make another thing clear. It must be clearly understood that this proviso is not to be interpreted as interfering with the freedom of the Local Government to obtain the introduction of legislation subsequently, by which the jurisdiction of the High Court may be barred, in the same way as subsequent legislation will be introduced in order to supplement clause 18 in respect of appeals. I trust that if these two provisos are inserted, all these difficulties will be removed.

Mr. SHANTI SHEKHARESWAR RAY: May I ask a question, Sir?

Mr. PRESIDENT: Order, order. I think it is for Mr. Narendra Kumar Basu now to say if he would insist on the two motions that stand against his name, one in respect of clause 27A and the other in respect of clause 19(2).

Mr. NARENDRA KUMAR BASU: I may point out to the House, Sir, that my objections to clauses 19(2) and 27A were not solely confined to the question of affecting the jurisdiction of the High Court. There are some points as regards the merits of the sub-section also. For instance, if the provisos suggested by the Hon'ble Mr. Prentice be accepted, my objection to these sections, as affecting the jurisdiction

of the High Court and being *ultra vires* of this legislature—they are settled, your ruling settles that point of order. But my objections as to the merits of the two sections, that is to say, so far as the other and lower courts are concerned, they of course remain.

Mr. PRESIDENT: What was your motion, Mr. Basu, with regard to clause 19 (*2*)?

Mr. NARENDRA KUMAR BASU: My motion was that in clause 19(*2*), in lines 8 to 10, the words "and the decision of the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final" be omitted.

Mr. PRESIDENT: Did you not raise your point of order on the basis of that motion?

Mr. NARENDRA KUMAR BASU: Yes, Sir. One of the grounds for my amendment was that, so far as the High Court was concerned, this section was *ultra vires* of the legislature. But so far as Courts of Session, to which appeals will also lie under section 18, are concerned, my objection goes to the root of the matter, because under section 530 of the Criminal Procedure Code an appeal court is bound to throw out a conviction or a sentence if it finds that the trial has been without jurisdiction. By granting appeals under section 18 and at the same time by curbing the right of appeal under section 19(*2*), Government propose to do something which is not proper, and I submit that the rights of the courts of appeal should not be limited in this respect.

Khan Bahadur Maulvi AZIZUL HAQUE: Sir, one thing has not been clear to this side of the House and that is whether this House is competent to pass a law—

Mr. PRESIDENT: I do not think you are competent to raise that question after my ruling.

Mr. S. M. BOSE: I beg, with the leave of the House, to withdraw the motion that stands in my name.

The following motion was then, by leave of the Council, withdrawn:—

Mr. S. M. BOSE to move that clause 19(*2*) be omitted.

The Hon'ble Mr. W. D. R. PRENTICE: May I ask, Sir, what is the position? If amendment No. 73 is rejected, will the clause, as originally drafted, stand? What is the position, for I am thinking of bringing in a subsequent amendment and I would like to know what we are considering now.

Mr. PRESIDENT: Mr. N. K. Basu is asking for the deletion of certain words in clause 19(2). If his amendment is thrown out, the clause remains as it is, with the proviso that you have proposed, added.

The Hon'ble Mr. W. D. R. PRENTICE: I may tell you, Sir, that later on I intend to move the addition of a proviso to clause 19(2).

The motion of Mr. Narendra Kumar Basu, that in clause 19(2), in lines 8 to 10, the words "and the decision of the Chief Presidency Magistrate or the District Magistrate, as the case may be, shall be final" be omitted, was then put and lost.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the following words be added to clause 19(2): "provided that nothing in this sub-section shall affect the jurisdiction of the High Court."

Khan Bahadur Maulvi AZIZUL HAQUE: May I rise on a point of information, Sir? What will be the effect of this clause? So far as courts are concerned, certain rights are given to Sessions Judges and also to the High Court. So far as this section is concerned, the jurisdiction of the High Court has been safeguarded, but what about the jurisdiction of the other courts? Is that affected?

The Hon'ble Mr. W. D. R. PRENTICE: As I explained yesterday, we could only legislate for courts under our control; and their powers can be limited by us so far as necessity arises.

Mr. PRESIDENT: This clause will affect the jurisdiction of all courts under the administrative control of the Local Government, other than the High Court.

The motion that the following words be added to clause 19(2)—

"Provided that nothing in this sub-section shall affect the jurisdiction of the High Court"

was then put and agreed to.

Mr. PRESIDENT: The question is that clause 19, as amended, stand part of the Bill.

The motion was put and agreed to.

Mr. NARENDRA KUMAR BASU: I beg to move that clause 27A be omitted.

It is not on the ground that this section is *ultra vires* of the legislature—because that point has just been settled—but it is on the question of its merits that I submit that such a clause should not find a place in the Statute Book. Hon'ble Members will be pleased to see

how loosely, and at the same time how widely, the section has been drafted. In fact, if you take the last clause first, you will find that provision is made that no suit for damage shall lie in respect of any property whereof possession has been taken under the Act. Now, Sir, I defy the framers of this section, or the framers of the Bill, to search through the provisions of the Bill and find out whether possession of any property can be taken under the Bill at all. I submit, Sir, it shows the haste, incompetence and the drastic nature of the drafting of the present Bill. Government want to take power to give immunity for taking possession of property under the Bill, whereas there is no such provision in the Bill at all!

3-45 p.m.

What they want is universal immunity from all sorts of offences, be it in civil or criminal courts. Probably, in the next Bill, the section will be—"no officer who will have anything to do with its provisions or administration may be tried or sued against in any civil court whether in India or elsewhere for anything they might have done in their private capacity." I submit, Sir, that these clauses about indemnity ought to be absolutely fair and rigid, and no powers should be taken to indemnify people for doing things which are not permissible under this Act.

Mr. SHANTI SHEKHARESWAR RAY: I may point out that the words "in good faith" are put in the wrong place in this clause. Sir, while we were discussing a similar clause in connection with the Bengal Suppression of Terrorist Outrages Bill, I pointed this out and Mr. Reid accepted the amendment for placing it in the proper place. At that time I raised arguments against such a clause before the House, and I do not think it is of any use repeating the same thing here. But I draw the attention of the Hon'ble Member in charge of the Bill to the slipshod manner in which this Bill has been drafted. It is indeed a matter of great regret that the Government in bringing forward such measures do not exercise even this amount of care in drafting a Bill. I hope, Sir, the Hon'ble Mr. Prentice will be pleased to accept an amendment on the lines of the amendment made to a similar clause in the Bengal Suppression of Terrorist Outrages Act. With your permission, Sir, I shall move an amendment to that effect later on.

The Hon'ble Mr. W. D. R. PRENTICE: Are we going to take up 97, 98 and 99 as well?

Mr. PRESIDENT: Yes, I shall take 95-96, 97 and 98 together.

The following motions were called but not moved:—

Mr. S. M. BOSE to move that in clause 27A, in lines 1 to 3, the words "Except as provided in this Act no proceeding or order purporting to be taken or made under this Act shall be called in question by any court, and" be omitted.

Mr. S. M. BOSE to move that in clause 27A, in line 3, after the words "by any court" the words "other than the High Court" be inserted.

Mr. PRESIDENT: Mr. Basu, will you move your amendment No. 99?

Mr. NARENDRA KUMAR BASU: That depends, Sir, on amendment No. 95: if that amendment fails, I shall move it.

Dr. NARESH CHANDRA SEN GUPTA: Sir, I am not sure that Mr. Narendra Kumar Basu is right in saying that under this Act no property can be taken possession of by anybody. Perhaps, he has forgotten the very wide embracing words used in section 3, *viz.*, "in making such arrest the officer may use any means that may be necessary . . . ," and perhaps the framers of this section had it in their mind that for the purpose of arresting a person his property may be appropriated by the officer, and if he does so, no civil suit will lie against him; and it is remarkable, and that is a point which Mr. Basu has not noticed, that under this clause while if anything is intended to be done, it must be done in good faith, in respect of a property of which possession has been taken, it need not have been taken in good faith. So, if an officer takes a property even in bad faith, a suit will not lie: that is the implication of this clause.

Then, Sir, I would like to point out the subtle distinction between the words "anything done" and the words "anything intended to be done." You cannot bring a suit in respect of anything done in good faith or otherwise; but in respect of anything intended to be done, it must be intended in good faith and for good reasons. Sir, a suit cannot lie for the mere intention to do anything. There is no possibility of a suit being brought against a person because he intended to do something. Therefore, the addition of the words "in good faith" here, makes no difference. But if you add something after the words "anything done," it will make a lot of difference. So, I think Mr. Narendra Kumar Basu has been under certain misconception regarding the protection to Government officials for the official acts done in good faith. That protection, Sir, is given to them in various other ways, and this section is not intended to do that.

But, this section, Sir, provides for something more. It makes the officers administering this Act absolutely immune from any act on their part and that illustrates the proposition which I have the boldness to

assert. Government wants to have absolutely unrestrained and unchallengeable power to do anything they like to harass the people, if need be.

MUNINDRA DEB RAI MAHASAI: Sir, I beg to support the motion of my esteemed friend Mr. Basu. By the insertion of this clause you want to bar the jurisdiction of the courts against any injustice done to the accused. Under cover of law you want to protect the police and their accomplices from their misdeeds. If anything is done fairly and squarely, there is nothing to be afraid of and no special protection will be necessary. The clause wants to cover all sins of omission and commission by the spoilt children of Government which is most unfair. If a person is falsely implicated and is put to infinite trouble and consequent indignities for no fault of his own, justice will be denied to him. He will be debarred by this lawless law from getting any relief. The miscreants will get off scot-free. This would be giving undue indulgence to unscrupulous men vested with authority. Under this Act no proceeding or order shall be called in question by any court and no civil or criminal proceeding shall be instituted against any person for anything done by him. Even one is barred to lay claim for loss or damage of property whereof possession has been taken under this Act. This is simply preposterous. It is neither justice nor fairplay which had been the characteristic feature of British administration. Perhaps in these days those qualifications are not allowed to cross the English Channel. Pray do not tarnish the fair name of England by the insertion of such a lawless provision. If you insist on it, the Bill will be a misnomer, and its title should have to be changed to "Official Security" or rather the "Police Security Bill."

Khan Bahadur Maulvi AZIZUL HAQUE: As a member of the Select Committee, I would like the Hon'ble Member, in view of the enormous difference of opinion, to enlighten us on two points. The first point which Mr. Basu has raised is—under what section of this Act it may be possible to take possession of a property? That is point number one. The second point is—will the Government be prepared to consider the desirability of bringing the words "in good faith" after the words "anything done"? In other words, it will read thus: "shall be instituted against any person for anything done in good faith, or intended to be done . . . . " Sir, most of the obvious objections will go, if the words "in good faith" be added after the word "done." It will fortify the Government and at the same time it will convey the meaning that everything is done in good faith. I think the House has a right to see that when an indemnification is done, people are also protected, and in that view, the Hon'ble Member will, I hope, enlighten us on these two points.

The Hon'ble Mr. W. D. R. PRENTICE: Sir, the Khan Bahadur's speech is most unfortunate for me. For I was going to defend myself against the attacks of Rai Mahasai by pointing out that the Select Committee of this Council have approved of this clause—this un-English, or whatever term he has employed, clause. We really do not intend to let our officers go about and commit all sorts of *zulum*, and then use section 27A to protect them. It is very difficult for us of course to look at legislation from the point of view of such critics, but I do not think myself that the clause is open to the interpretation that has been given to it.

As regards the specific point raised by Mr. Narendra Kumar Basu, it is interesting to note that another lawyer has pointed out that he differs in his views. Obviously, there is a difference of opinion on legal matters. (Hear, hear.) As we find that even lawyers disagree, we think we are justified in having the provision.

As regards the other point, *viz.*, "or in good faith," I am told that it really makes no difference where we put these words. The Select Committee was obviously satisfied with the words as they are, and our experts tell me that it would not really make any difference if you move their position to that which they occupy in the Suppression of Terrorist Outrages Act. If that meets with the wishes of the Council, I am willing to do that; otherwise I oppose Mr. Basu's amendment.

Mr. NARENDRA KUMAR BASU: May I put a question, Sir? I wanted to know whether the Hon'ble Member in view of the facts that are now being brought to his notice regarding "taking possession of property" in this clause, is inclined to delete the words in the last three lines.

The Hon'ble Mr. W. D. R. PRENTICE: I am not prepared to do that.

The motion of Mr. Narendra Kumar Basu was then put and a division taken with the following result:—

AYES.

Ali, Maulvi Hassan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Babu Jatindra Nath.
Basu, Mr. Narendra Kumar.
Chatterjee, Mr. B. C.
Chaudhuri, Babu Kishori Mohan.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Fazlullah, Maulvi Mahammad.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Huq, Mr. A. K. Fazl-ul.
Maiti, Mr. R.
Mittra, Babu Sarat Chandra.
Mookerjee, Mr. Syamaprosad.
Rahman, Maulvi Azizur.
Rai Mahasai, Manindra Deb.
Ray, Mr. Shanti Shekhareswar.
Raut, Babu Hemoi.
Sen Gupta, Dr. Naresh Chandra.
Shah, Maulvi Abdul Hamid.

NOES.

Afzal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bal, Rai Sahib Sarat Chandra.
Barma, Rai Sahib Panchanan.
Basir Uddin, Khan Sahib Maulvi Mohammad.
Birkmyre, Mr. H.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Hafizur Rahman.
Chaudhuri, Maulvi Syed Osman Haider.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Eusufji, Maulvi Nur Rahman Khan.
Faroqui, the Hon'ble Nawab K. G. M., Khan Bahadur.
Fawcus, Mr. L. B.
Gangali, Rai Bahadur Sushil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. G. R.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. G. G.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Locock, Mr. G. W.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.
Nag, Reverend B. A.
Nandy, Maharaja Sris Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Raheem, Mr. A.
Rahman, Mr. A. F. M. Abdur.
Ray, Babu Amulyadhan.
Reid, Mr. R. N.
Rees, Mr. J.
Roy, Babu Jitendra Nath.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar
Sen, Mr. B. R.
Stapleton, Mr. H. E.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

The Ayes being 22 and the Noes 52 the motion was lost.

The following motion was called but not moved:—

Mr. NARENDRA KUMAR BASU to move that in clause 27A, in line 4, the words "civil or" be omitted.

4 p.m.

Mr. SHANTI SHEKHARESWAR RAY: I beg to move that in clause 27A, in line 5, for the words "done or in good faith" the words "in good faith done or" be substituted.

The Hon'ble Mr. W. D. R. PRENTICE: As I have already said, we have no objection to accepting this amendment as it makes no difference to the Act.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that at the end of clause 27A the following words be inserted:—

"Provided nothing in this section shall affect the jurisdiction of the High Court."

I have already explained the reason.

The motion was put and agreed to.

Mr. PRESIDENT: The question before the House is that clause 27A, as amended, stand part of the Bill.

The motion was put and agreed to.

Clauses 28 and 29.

Mr. PRESIDENT: The question before the House is that clauses 28 and 29 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. W. D. R. PRENTICE: I beg to move that the Bill, as amended in Council, be passed.

We have spent a long time over this Bill and many apprehensions have been expressed. But I am perfectly certain that Government will not use this Bill unless they are compelled to do so.

Mr. SYAMAPROSAD MOOKERJEE: Sir, I have not taken any part in the detailed discussion of the provisions of this Bill not simply because such a discussion was practically futile but also because I felt that Mr. Prentice should not be deprived of the credit and pleasure of seeing through a Bill which is completely retrograde in character; if I may say so, a Bill which is perfect in its imperfections. I do not think, Sir, that it will be wrong on my part to congratulate the House on having failed to disfigure the Bill by removing any of its imperfections. In fact, one recommendation which was made by the Select Committee with the object of reducing the possibility of extending the provisions of the Bill to the tenants was also thrown out by the House on the recommendation of the Hon'ble Member himself.

Before I pass on to the other points, I must, however, congratulate the Hon'ble Mr. Prentice on having found (though rather late) a supporter (though rather doubtful) in Dr. Sen Gupta. He had occasion to quote with approval Dr. Sen Gupta's views yesterday and also to-day. I am glad to find that the opinions of Dr. Sen Gupta have begun to receive the same amount of respect as Mr. Prentice would perhaps pay to the scriptures! I congratulate Dr. Sen Gupta also in this connection.

We have all noticed the drastic provisions of the Bill. I would ask the House for a moment to remember once again, before the Bill is actually passed into law, the nature of the provisions which we are just

going to pass. There are drastic provisions for indiscriminate search which can be made by any officer within which term is included, I understand, even a head constable. There is a provision in the Bill which gives power to Government to detain persons, to deprive them of their legitimate work; at the same time there is no provision for granting any allowance to persons who may thus be detained. There are also drastic powers given to Government for the purpose of controlling posts and telegraphs. We have seen the large powers which have been given to the special magistrates who will not only have jurisdiction to try offences punishable under this Act but also any other offences which may be regarded as part of the movement for undermining public security. The list is not exhaustive, but is merely illustrative.

There is one aspect of the question which I would like Mr. Prentice to bear in mind. It is repressive measures like these that give a new lease of life to the terrorist movement. That is the considered opinion of many. What is the effect of these repressive measures? You practically succeed in preventing people from giving expression to their legitimate views on governmental policy and action; to put it briefly and tersely, you drive the movement underground. That is certainly one of the indirect results which Mr. Prentice is going to achieve, although I am certain he does not intend to do so. Then, again, it has been said that the object of this Bill is to fight the civil disobedience movement, but at the same time it has been admitted by Mr. Prentice that the movement is now on the wane. In reply to questions he states that the movement has entirely disappeared from certain parts of the province. If that is so, what is the justification for placing on the Statute Book a measure of this description? I know Mr. Prentice will say that there is the provision that the Act will not be brought into force unless Government considers that such a step is necessary in the interest of public security. But, Sir, we are not prepared to place much reliance on such an assurance. I would ask the House to bear in mind the answer given by the Hon'ble Member to a question which was put by Kazi Emdadul Hoque only the other day as regards the state of affairs in Gaibandha.

4-15 p.m.

There Mr. Prentice admitted that no arrests had been made for the last ten months. There has been no actual, visible manifestation of the civil disobedience movement, and yet he said definitely that Government was unable to withdraw the orders of restriction. He gave no reason. That describes the mentality of Government—that describes the policy which Government wants to pursue.

Sir, it has been said that the object of this Bill is to fight the civil disobedience movement and I suppose, to fight the Indian National Congress. The Indian National Congress is acknowledged to be the

oldest, the bitterest and the most powerful enemy of Government so far as the bureaucracy is concerned; it is not, therefore, a matter of surprise that the bureaucracy will not let any opportunity go if it finds it possible to curtail the activities of the Congress or to crush it altogether. I am not here to discuss to-day whether repressive measures of this description will ever succeed in killing the Congress movement, but I do say this—that the greater the repression, the greater the bitterness in the province and in the country and the greater will be the agitation that will be carried on against Government. I do not think even the strongest repressive measures will ever succeed in crushing the rising spirit of the people. The spirit has awakened, the national consciousness of the people is roused, and I do not think that Mr. Prentice, in spite of his best endeavours, will ever succeed in crushing it. Sir, to quote the language used by no less a distinguished person than the present Prime Minister of England when he presented the Round Table Conference report before Parliament, Government might let loose its armies from the Himalayas to the Cape Comorin, they might transform the whole country into a prison house, but it is impossible for Government to go against the spirit of the times. That is an aspect of the question which the Hon'ble Member, whose term of office is nearing an end, would do well to remember even at this stage. Sir, the other day and also on several other occasions Mr. Prentice said when introducing measures of this kind that he wanted to leave a legacy behind him; that he was anxious to hand over to his successors a Government which would be working in smooth order. Now let us examine what is the kind of legacy Mr. Prentice will leave behind him: what is the memory he will leave behind when the time comes for handing over the affairs of Government to the new regime. Apart from all other considerations he will have the pleasure and privilege of handing over to his successors a Government entirely bankrupt—I am not referring for the moment to its bankruptcy of statesmanship, but only to financial bankruptcy—a province which is overburdened with ignorance and poverty and with all sorts of foul diseases, a province which will boast of a net-work of jails, prisons and detention-houses. Is that the sort of legacy which the Hon'ble Member will be content to leave behind him? And to crown all, there will be all these repressive measures and the consequent oppression on an untold number of people, and perhaps the destitution of hundreds and thousands of Bengali homes. Is that the sort of legacy, I ask again, which the Hon'ble Member will be proud of leaving behind him? So far as I can foresee, I can say this, that a time will come in the history of this country when Hindus and Muhammadans will combine and work for the mutual benefit of their motherland. And when such a time will come, I am sure that the Hon'ble Mr. Prentice and men of his ilk, who are carrying on the administration to-day, will not hear praise from the united voice of the two communities; rather they will be branded as persons who failed, and failed ignobly,

to serve the interests of the country they professed to serve at one of the most critical periods of her history. I do not know what Mr. Prentice will say with regard to this question, but the way in which these measures are being placed on the Statute Book one after another makes us feel that neither any civilised Government nor any civilised individual would be proud of these achievements. Sir, it is entirely for the Hon'ble Member to consider whether he will regard himself as belonging to either of these categories.

(At 4-20 p.m. the Council was adjourned for prayer and it reassembled at 4-35 p.m.)

The Hon'ble Mr. W. D. R. PRENTICE: Sir, I do not think I need reply at length to Mr. Syamaprosad Mookerjee's speech. I would point out that powers rather wider than those which this Bill confers on Government have been in force in the province for the last 11 months. I would only ask the members of this Council to consider what the state of the country is. Mr. Syamaprosad Mookerjee accused us of attacking the Indian National Congress. He is entirely wrong. What we are attacking are the illegal activities sponsored by the Congress. If the Indian National Congress returns to ordinary constitutional methods for the introduction of a new system of Government, then the activities of the Congress and its supporters will be entirely outside the ambit of this Bill. Mr. Syamaprosad Mookerjee appeared to be rather pessimistic about the future, but towards the end he ventured on the prophesy that the time would soon come when Hindus and Muhammadans would unite in working together for the good of the country. Sir, if this is one of the results which is to spring from the passing of this Bill, then I think the Council should welcome it.

The motion that the Bill, as settled in Council, be passed was then put and a division taken with the following result:—

AYES.

Atmal, Nawabzada Khwaja Muhammad, Khan Bahadur.
Ali, Maulvi Syed Nausher.
Armstrong, Mr. W. L.
Austin, Mr. J. M.
Bal, Babu Lalit Kumar.
Bashir Uddin, Khan Sahib Maulvi Mohammad.
Blandy, Mr. E. N.
Chaudhuri, Khan Bahadur Maulvi Alimuzzaman.
Chaudhuri, Khan Bahadur Maulvi Nafiur Rahman.
Cohen, Mr. D. J.
Coppinger, Major-General W. V.
Das, Rai Bahadur Kamini Kumar.
Farequi, the Hon'ble Nawab M. G. M., Khan Bahadur.
Fawcus, Mr. L. R.
Gangali, Rai Bahadur Sushil Kumar.
Ghuznavi, the Hon'ble Alhadj Sir Abdelkerim.
Gilchrist, Mr. R. N.
Guha, Mr. P. N.
Haque, Khan Bahadur Maulvi Azizul.
Henderson, Mr. A. McR.
Hog, Mr. A. K. Fazl-ul.
Hussain, Maulvi Latafat.
Hogg, Mr. G. P.
Hooper, Mr. C. G.
Kasem, Maulvi Abul.
Khan, Khan Bahadur Maulvi Muazzam Ali.
Lorsen, Mr. C. W.
Mitter, the Hon'ble Sir Provash Chunder.
Momin, Khan Bahadur Muhammad Abdul.

Mallick, Mr. Mukunda Behary.
Nag, Reverend S. A.
Nandy, Maharaja Srio Chandra, of Kasimbazar.
Nazimuddin, the Hon'ble Mr. Khwaja.
Philpot, Mr. H. C. V.
Prentice, the Hon'ble Mr. W. D. R.
Rahgom, Mr. A.
Rahman, Mr. A. F. M. Abdur-.
Reid, Mr. R. N.
Rose, Mr. J.
Roy, Mr. Saileswar Singh.
Roy, Mr. Sarat Kumar.
Roy, the Hon'ble Mr. Bijoy Prasad Singh.
Sahana, Babu Satya Kinkar.
Sarbar, Rai Sahib Rebati Mohan.
Sen, Mr. S. R.
Solaiman, Maulvi Muhammad.
Stapleton, Mr. H. E.
Suhrawardy, Mr. H. S.
Townend, Mr. H. P. V.
Wilkinson, Mr. H. R.
Woodhead, the Hon'ble Mr. J. A.
Wordsworth, Mr. W. C.

NOES.

Ali, Maulvi Masqan.
Baksh, Maulvi Syed Majid.
Banerji, Mr. P.
Basu, Mr. Narendra Kumar.
Bose, Mr. S. M.
Chaudhuri, Babu Kishori Mahan.
Choudhury, Maulvi Nural Absar.
Chowdhury, Maulvi Abdul Ghani.
Dutt, Rai Bahadur Dr. Haridhan.
Fazlullah, Maulvi Muhammad.
Ghose, Dr. Amulya Ratan.
Hakim, Maulvi Abdul.
Hoque, Kazi Emdadul.
Mittra, Babu Sarat Chandra.
Mookerjee, Rai Syamaprosad.
Rahman, Maulvi Azizur.
Rai Mahasai, Munindra Deb.
Ray, Mr. Shanti Shekhareswar.
Rout, Babu Hosani.
Roy, Babu Haribansa.
Roy Choudhuri, Babu Hem Chandra
Samad, Maulvi Abdus.
Sen Gupta, Dr. Haresh Chandra.
Shah, Maulvi Abdul Hamid.

The Ayes being 52 and the Noes 24 the motion was carried.

The Calcutta Municipal (Second Amendment) Bill, 1932.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the Calcutta Municipal (Second Amendment) Bill, 1932, as reported by the Select Committee, be taken into consideration.

In moving this motion I beg to submit that the Select Committee very carefully considered the provisions of the Bill and have recommended 19 seats to the Muhammadan community on the Corporation on population basis. The population of the community, excluding Garden Reach, comes to about 23·8 per cent., and on this percentage they are entitled to 18·5 seats and they have been given 19. Of course, in making these calculations, the special seats, *viz.*, seats for the Chamber of Commerce, the Trades Association and of the Port Commissioners, have been taken into consideration. I may inform the hon'ble members that when the Calcutta Municipal Bill was discussed, the late Sir Surendra Nath Banerjea made it perfectly clear that the special seats for the Europeans were meant to supplement the general seats; so these special seats had to be taken into consideration in determining the number of seats on population basis. Muhammadans have now got a very fair proportion of representation in the Corporation to which they are justly entitled on account of their political influence and numerical strength in the city. I hope this will satisfy not only the Muhammadan community but the Hindu community as well, because I believe that

they do not grudge the Muhammadans their fair proportion of representation. I also hope that it will satisfy the European community as well. With these words, I beg to move the motion that stands in my name.

The motion of the Hon'ble Mr. Bijoy Prasad Singh Roy was then put and agreed to.

Clause 1.

Mr. PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was put and agreed to.

Clause 2.

Mr. A. K. FAZL-UL HUQ: I think, Sir, it would be convenient if you would permit my amendments to clauses 2, 3 and 4 to be taken together and discussed. For my amendments are all interdependent, and one speech would suffice for all of them. I suggest this procedure, because so far as my amendment to clause 2 is concerned, it is really dependent on my amendments to clause 3.

Mr. PRESIDENT: Would that simplify matters?

Mr. A. K. FAZL-UL HUQ: Oh, yes; certainly.

Mr. PRESIDENT: In what way?

Mr. A. K. FAZL-UL HUQ: I will just explain, Sir. My amendments to clauses 2 and 4 are only consequential. Amendments to clauses 2 and 4 have been necessitated by reason of the fact that if amendments to clause 3 are carried, these amendments become unnecessary. So I submit, Sir, that you will be good enough to permit a joint discussion on these three clauses.

Mr. PRESIDENT: I do not see any point in that. We had better stick to the programme.

Mr. A. K. FAZL-UL HUQ: As you please, Si

I beg to move that in clause 2, in lines 3 and 4, for the word "eighty-one" the word "eighty-nine" be substituted. In doing so, Sir, I feel that I owe it to the Council to explain very briefly the reasons which have induced me to move this amendment. Sir, there was a time not very long ago when the Muhammadans did not take any interest in

the working of the self-governing institutions, and when they thought that so far as these public bodies were concerned, their affairs had better be left to others. But, Sir, with the advance in English education and with the influence of political ideas, the Muhammadans are now beginning to realise that it is time that they should take their proper share in the administration of these public institutions, and that they should also try to secure as much as possible their due share of membership on the self-governing institutions. One who is acquainted with the trend of political ideas in the Muhammadan community knows very well how very rapid has been the change from lethargy to activity, from an utter oblivion to the needs of their community to a very keen sense of responsibile political life for the community and a desire to win for the members of their community their due representation on the self-governing bodies.

Now, Sir, I do not wish to waste the time of the Council over that. The next point which I wish to discuss is the peculiar importance of the Calcutta Corporation as a self-governing body. The Calcutta Corporation is in essence almost unique of its kind. It is, I believe, considered from all points of view, second in importance in the whole British Empire to the London County Council alone. Its activities affect the daily lives of nearly a million and a half of human souls, and its revenues amount to well over four crores of rupees, being more than those of the provinces of Assam and the Central Provinces. It is difficult to those of my friends, whose ideas of civic administration are derived from an acquaintance with those miserable institutions known as the *mufassal* municipalities of Bengal, to form an adequate idea of the working of the Calcutta Corporation. The Calcutta Corporation as an employer of labour is second only to the Government of Bengal. All things considered, therefore, the case of the Calcutta Corporation is entirely different from the *mufassal* municipalities, the local boards and the district boards.

Now, Sir, I shall come directly to the motions of which I have given notice and which I am going to move this afternoon. The Hon'ble Minister has said that the Muhammadans have been given 19 seats on the Calcutta Corporation on a population basis. But I would ask him to kindly look up the figures and see if he is not wrong in his arithmetic. It is admitted that the proportion of Muhammadans to the total population of Calcutta is 25·7 per cent. But what has he done? He has given us 19 seats out of 77 seats. But I should think that a quarter of 77 is 19·3 and I am sorry that the Hon'ble Minister has cut out the decimal and has given us only the integer. So, according to this calculation the Muhammadans should be given 20 seats. As a member of the Select Committee I made it perfectly clear that I did not accept the principle on which the number of Muhammadan seats was fixed, nor was I willing to accept any kind of agreement

so far as matter was concerned, and I also told the Select Committee that they were at perfect liberty to refer to this view of mine in the Council. Sir, I am now coming to the amendments and suggestions that I have made. My amendment to clause 2 is consequential on my amendments to clause 3, and I am now going to explain how that is so. If the amendments to clause 3 are accepted, then, for the word "eighty-one" the word "eighty-nine" has to be substituted, because there must be eight more seats added to the strength of the House, because four more seats have got to be distributed to the Muhammadan community. But the question here is: Is there any justification for my asking that the Muhammadans should have eight extra seats? Now, Sir, I frankly confess that I have been told that during the last few days there was a sort of compromise between the Hon'ble Minister and some members of this House.

5 p.m.

I am also told that there was some sort of a compromise in the year 1923, when the Calcutta Municipal Act was passed, between the late Sir Surendra Nath Banerjea, the then Minister-in-charge, and the Muhammadan members of the Bengal Legislative Council. So far as that earlier compromise is concerned, the only point that I wish to refer to is that on a reference to the proceedings of the Council of that year it appears that when Sir Surendra Nath moved his motion, and put in his suggestion before the House, there was nothing like perfect agreement between the Hindu and the Muhammadan members. A compromise postulates some sort of an agreement between the contending parties; but, Sir, far from there being an agreement when the motion was made, the House divided, as many as 67 members voting for and 31 voting against it, all the 31 belonging to the Hindu community. I fail to see, Sir, how, when as many as 31 members as against 67 came forward to oppose that amendment, it can be said to be a compromise. That was not a compromise, but it was a motion that was carried in the Council in spite of opposition.

Coming now to the recent compromise between the Hon'ble Minister and certain Muhammadan members of this Council, I may say that if the Hon'ble Minister has had any sort of a talk and come to any agreement with them, be it called a compromise or anything else, it was all the same carried out not in full agreement, and in such haste and hurry that, I regret, I must sincerely condemn. It was the business of the Hon'ble Minister to consult the wishes of the Muhammadans who live permanently in Calcutta and who are associated personally with the affairs of the Calcutta Corporation and who are expected to represent the voice of the Muhammadan ratepayers of Calcutta. I do not make any reflection on those Muhammadan members who have had a talk with the Hon'ble Minister, and it is quite likely that they came to a decision with the best of intentions, and that they thought that

that was the fairest compromise that could be made under the circumstances for the Muhammadans. As a matter of fact, in some respect it is a fair compromise. But the Muhammadan members who talked with the Hon'ble Minister did not know that there was such a very strong feeling in the minds of the Muhammadans of Calcutta, that the Muhammadans were not being fairly treated by being given a fair proportion on the basis of population ratio of the seats and that they were entitled to eight more seats. I hope, Sir, the Council will not be horrified to know that the Calcutta Muhammadans even feel that the Muhammadans should be given a little weightage: whether they get it or not, they claim it with the best of reasons. What is the reason underlying the fact that the Hindus in the North-Western Province have been given weightage of 400 per cent.? What is the reason why the Hindus of Sindh in case of separation want a weightage of 500 per cent.? What is the reason, again, that the Muhmmadans of Bihar and Orissa are given a weightage of 200 per cent.? What is the reason, Sir, that the Muhammadans in the Central Provinces, in Assam, in Bombay and in Madras have been given weightage? Weightage is given not because there is any particular reason that it has to be given, but because circumstances are such that a community, on account of its being in a great minority, requires a little protection in order to make their presence in that body effective.

Now, Sir, I am only putting forward my views before this House. It is for the House either to accept or reject it. I am not going to create any bitterness over this question. The suggestion that I make comes to this: the Hon'ble Minister proposes to raise the number of membership in the Corporation to 92, namely, 77 councillors, five aldermen and ten nominated members. I am asking him to add eight more and to give these eight seats to the Muhammadans. I am not proposing that a single seat should be taken away either from the Hindus or Europeans. I am not going to touch seats allotted to anybody. I am only asking to consider the question of giving some additional seats to the Muhammadans. As regards the Government proposal, I think it falls just a little short of the number of seats we are entitled to, according to the principle which the Hon'ble Minister has adopted. I am proposing that a few more seats should be added and the number increased from 92 to 100; the Calcutta Corporation Council consisting of 100 councillors and aldermen of whom there will be 27 Muhammadans, that is to say, a little over one-fourth of the total seats. It is a question of weightage, Sir. I have nothing to say, Sir, if the House decides that my proposal cannot be accepted; but if the House thinks that my proposal is a fair one, and I have already said that I have not brought forward this proposal in detriment to the interest of anybody, or to raise any acrimonious issue over it, I think that the amendment that I have proposed ought to be accepted.

Now, Sir, so far as this particular matter is concerned, there is another point on which I lay great importance. I think there will be vehement opposition by the Government to my proposal. I am saying nothing as regards the opposition from my friends, the Hindus. They might think that the preponderance of the Muhammadans to the extent that I have proposed is not called for by the political exigencies of the situation; but so far as the Government is concerned, I wonder how Government could have decided to oppose my amendment without hearing the reasons which induced me to give notice of this amendment. The Cabinet must have sat, the Cabinet must have discussed and the Cabinet must have decided before hearing me. It is in a way giving judgment before the actual party interested is heard. This is a procedure to which I take the most serious objection, because the Hon'ble Minister did not even discuss with me the reasons which have induced me to move this amendment before this Council. I may say that I have given notice of this amendment, because I have been asked and asked, repeatedly by leading Muhammadan gentlemen of Calcutta to give notice of these amendments and to put these proposals before the House, and it is for the House to accept them or not. If the House did not accept them, I cannot raise any storm over this. But I am putting forward the views of the Muhammadans who reside permanently in Calcutta, who propose to take part in the forthcoming elections, and who feel that their daily life is affected by the activities of the Calcutta Corporation. I say nothing as regards the compromise the Hon'ble Minister may have had with the Muhammadan members; I cast no aspersions on the honesty of the Muhammadan members who have talked with him and come to this decision without knowing anything of the real facts. But I do not think that even those members who took part in the discussion with the Hon'ble Minister will object if the House give the Muhammadans of Calcutta eight more seats on the Calcutta Corporation, not by taking away these eight seats from those that have been already allotted to others, but by a simple addition of these seats to the total number and giving it to the Muhammadans. There is a Bengali proverb in my part of the country that deserves mentioning, *viz.*, a compromise arrived at under a tamarind tree is binding on nobody, not even on the parties to the so-called compromise. If any such compromise has been effected, I hope the Hon'ble Minister will consider my proposal even at this last stage.

The Cabinet has decided to go against my proposal without hearing me.

I move that for the word "eighty-one" the word "eighty-nine" be substituted.

Mr. S. M. BOSE: At the outset, I must convey our best thanks to Mr. Huq for his very sober speech. He has said all that can be said on this point; but having regard to the wonderfully eloquent speech

that he made in August last, when supporting clause 17A of the Bengal Municipal Bill, I am really astonished to find him arguing against his own action at that time. In that speech, I believe, he said in very eloquent terms that whatever might be the case regarding separate electorates in legislative bodies, there was no case at all for extending that principle to local bodies, and he further accepted the principle that representation should be made for the minorities on the basis of the population ratio. If that be the accepted formula, Sir, how can he now ask in this House that an extra number of seats be given to the Moslems of Calcutta? The principle adopted should apply everywhere all over Bengal, and I cannot understand how Mr. Huq can ask us that in one particular case we should depart from that accepted formula and give the Moslems extra seats. Mr. Huq has spoken about the weightage given to minorities in the Legislative Councils of the North-West Frontier Province, Bihar and Orissa and other provinces, but the point is, we are here concerned only with local bodies, and I see no reason, Sir, why in local bodies the principle we have already adopted by agreement only two months ago should in any way be changed.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, I rise to oppose the amendment which has been moved by Maulvi Fazl-ul Huq—I am sorry, Sir, that I have addressed him as Maulvi—I should have addressed him as Mr. Fazl-ul Huq. The hon'ble member in moving his amendment has made certain observations, and I shall try to deal with them *seriatim*. The first observation he made was that Government was wrong in their calculation, and the Muhammadans were given less number of seats than what they were entitled to. According to Mr. Huq, they should have been given more than 19 seats, on the basis of 25·2 per cent. population. But I would remind the hon'ble member that he was a member of the Select Committee, and there we discussed on the basis of population of Calcutta, excluding Garden Reach. The Muhammadan population excluding Garden Reach is only 23·8; it is not even 24. On that calculation, they are not entitled to even 19 seats. They should get 18·5 and we have given them 19. So, if Government have erred, they have erred on the side of liberality, and they have not given the Muhammadans less seats than they are entitled to. Then the hon'ble member referred to the question of weightage. The Muhammadans in Calcutta, he thinks, are entitled to weightage and he claims eight more seats on behalf of his community. He was generous enough to say that he did not ask us to accommodate the Muhammadans by reducing the number of Hindu seats or by reducing the European seats, but by adding eight more seats. That would mean that Muhammadans will have 27 seats in place of 19. I submit if that proposal of Mr. Fazl-ul Huq were accepted, it would disturb the proportion of seats to which the other communities are entitled. Then the non-Muhammadan seats would be 46 against Muhammadan 27, but the

proportion of Muhammadan population to Hindu population is less than 24.

Mr. Fazl-ul Huq has said that Government came to a decision without consulting the representatives of the Muhammadan community in Calcutta. I join issue with him. I consulted him, I consulted Mr. Suhrawardy, I consulted Mr. Raheem and I consulted all the members of the *Proja* party not under a tamarind tree but at a party meeting properly convened. As usual, Mr. Fazl-ul Huq never cared to attend the meeting but came up at the eleventh hour to lodge his protest on the floor of this House. Mr. Fazl-ul Huq himself was a Member of Government for some time. He knows very well that Government cannot postpone their decision till he, as representative of Muhammadan community, would make his appearance in the Council Chamber and make his oration. Government must come to a decision on the information that might be available to them and they have followed this usual and the most salutary practice also in this case. I dare say that he himself did so when he was a Minister.

Much reference has been made to the compromise. I think I owe it to myself and I owe it to the Muhammadan members representing the *mufassal* to make it clear that they were guided by the members for Calcutta at the party meeting, and the latter, I must say in all fairness to them, accepted this compromise by way of expediency. I made it perfectly clear that Government must stand by the compromise of 1923 which was supported by almost all the Muhammadan members except two, *viz.*, Sir Abdulla Suhrawardy and Sir Hassan Suhrawardy, while practically all the Hindu members opposed it. This decision of the House was embodied in the Calcutta Municipal Act and Government could not go back on it in a light-hearted fashion. The Muhammadan community was offered four additional seats which they accepted. They enjoyed the fruits of that arrangement for the last nine years and I think they should not now try to resile from the position which they accepted in 1923. The *mufassal* members, therefore, were guided by the advice of the Muhammadan representatives of Calcutta who accepted this arrangement only by way of expediency, because if they did not, they would not have got six more seats which I had offered them.

I do not think it is necessary for me to go into further details, but I hope the Muhammadan community will accept the arrangement with good grace.

The motion was put and lost.

Mr. PRESIDENT: The question before the House is that clause 2 stand part of the Bill.

The motion was put and agreed to.

Clause 3.

The following motion was called but not moved:—

Mr. A. K. FAZL-UL HUQ to move that for clause 3 of the Bill, the following clause be substituted, namely:—

"3. In Schedule III to the said Act under the sub-heading 'A—General Constituencies'—

(*1*) in the entry relating to Sukeas Street, in column 3, for the word 'Two' the word 'Three" shall be substituted and in column 4, the word 'one' shall be inserted;

(*2*) in the entry relating to Bara Bazar, in column 3, for the word 'Three' the word 'Five' shall be substituted and in column 4, the word 'Two' shall be inserted;

(*3*) in the entry relating to Collootola, in columns 3 and 4, for the words 'Four' and 'Two' the words 'Five' and 'Three', respectively, shall be substituted;

(*4*) in the entry relating to Fenwick Bazar, in column 3, for the word 'One' the word 'Two' shall be substituted and in column 4, the word 'One' shall be inserted;

(*5*) in the entry relating to Taltola, in columns 3 and 4, for the words 'Two' and 'One' the words 'Three' and 'Two', respectively, shall be substituted;

(*6*) in the entry relating to Kalinga, in column 3, for the word 'One' the word 'Two' shall be substituted and in column 4 the word 'One' shall be inserted;

(*7*) in the entry relating to Entally, in columns 3 and 4, for the words 'Two' and 'One' the words 'Three' and 'Two', respectively, shall be substituted;

(*8*) in the entry relating to Beniapukur, in columns 3 and 4, for the words 'Two' and 'One' the words 'Four and 'Three', respectively, shall be substituted;

(*9*) in the entry relating to Ballyganj, in columns 3 and 4, for the words 'Two' and 'One' the words 'Three' and 'Two', respectively, shall be substituted;

(*10*) in the entry relating to Ekbalpur, in columns 3 and 4, for the words 'Two' and 'One' the words 'Three' and 'Two', respectively, shall be substituted;

(*11*) in the entry relating to Maniktala, in columns 3 and 4, for the words 'Two' and 'One' the words 'Three' and 'Two', respectively, shall be substituted; and

(*12*) in the entry relating to Belgachia, in column 3, for the word 'Two' the word 'Three' shall be substituted and in column 4, the word 'One' shall be inserted."

Mr. PRESIDENT: The question before the House is that clause 3 stand part of the Bill.

Maulvi SYED MAJID BAKSH: What about my amendment?

Mr. PRESIDENT: You can move it.

Mr. NARENDRA KUMAR BASU: I would draw your attention that you have just passed clause 3.

Mr. PRESIDENT: Before I declared that clause 3 stood part of the Bill, Maulvi Syed Majid Baksh got up; so I would certainly allow him to move his motion.

Maulvi SYED MAJID BAKSH: I do not move.

Mr. PRESIDENT: You let me fight for you and then you desert me! (Laughter.)

The following motions were called but not moved:—

Maulvi SYED MAJID BAKSH to move that for clause 3(*3A*) the following be substituted, namely:—

"(*3A*) In the entry relating to Bhawanipur, in column 3, for the word 'three' the word 'four' shall be substituted, and in column 4, the word 'one' shall be inserted."

If amendment No. 3 be not carried, Maulvi Syed Majid Baksh to move that for clause 3(*4*) the following be substituted, namely:—

"(*4*) In the entry relating to Bhawanipur, in column 3, for the word 'three' the word 'four' shall be substituted and in column 4, the word 'one' shall be inserted."

The motion that clause 3 stand part of the Bill was then put and agreed to.

The following motion failed:—

Mr. A. K. FAZL-UL HUQ to move that in clause 4 in proposed item No. 2 of the Schedule to the Garden Reach Municipality Act, 1932, in line 2, for the word "eighty-one" the word "eighty-nine" and in lines 2 and 3, for the word "seventy-seven" the word "eighty-five" be substituted.

Clauses 4 and 5.

Mr. PRESIDENT: The question before the House is that clauses 4 and 5 stand part of the Bill.

The motion was put and agreed to.

Preamble.

Mr. PRESIDENT: The question before the House is that the preamble stand part of the Bill.

The motion was put and agreed to.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: I beg to move that the Bill, as settled in Council, be passed.

Mr. PRESIDENT: The question before the House is that the Bill, as settled in Council, be passed.

The motion was put and agreed to.

The Bengal Patni Taluks Regulation (Amendment) Bill, 1932.

The Hon'ble Sir PROVASH CHUNDER MITTER: I beg to introduce the Bengal Patni Taluks Regulation (Amendment) Bill, 1932.

(The Secretary then read the short title of the Bill.)

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, I beg to move that the Bengal Patni Taluks Regulation (Amendment) Bill, 1932, be referred to a Select Committee.

The members of this House are familiar with the history of this Bill. On the 24th July, 1931, Babu Kishori Mohan Chaudhuri introduced a Bill for amending the Patni Regulation. His main object was that the defaulting *patnidars* would get facilities for setting aside a sale on payment of the sale price together with compensation similar to those enjoyed by judgment-debtors in rent or in civil court decrees.

The Bill was referred to a Select Committee which made considerable changes. Ultimately that Bill came under consideration of the Council in February, 1932. Government was somewhat reluctant to introduce changes into the framework of an old piece of legislation like the Patni Regulation which had worked satisfactorily for more than a century and which was enacted for a particular purpose. They were also somewhat apprehensive that there might be some danger in altering the existing provisions. With the main object of the Bill which the mover had in view, the Government attitude was one of

sympathy. It was also felt that the Bill, as drafted or even as it emerged from the Select Committee, would give rise to many practical difficulties. Government, therefore, opposed the Bill, but undertook that if the Bill was not passed, they themselves would introduce a Bill. The Bill after being considered clause by clause was rejected by Council by a majority of 46 to 40. I may mention that the opinion expressed by the High Court shows that their attitude was similar to that of Government about reluctance to change the framework of the Patni Regulation and the danger of doing so. However, as a large number of members of the Legislative Council desired that the *patnidars* should get the relief the mover had in view, Government undertook to introduce a suitable Bill.

The present Bill is being introduced in fulfilment of the undertaking then given by Government. In drafting it every endeavour has been made to avoid difficulties and dangers that might arise in actual working. During the preparation of the Bill Government consulted the Revenue Standing Committee. That committee accepted the outlines of the Bill as now introduced. Government also took the precaution of consulting some of those members of the Legislative Council who had either served on the previous Select Committee or had taken an interest in the Bill. A conference was called in which representatives of *zamindars* and also *patnidars* were invited along with some who were neither *zamindars* nor *patnidars*. This Bill embodies practically the agreed decision of the conference and the Revenue Standing Committee. I say "practically" because some of the *zamindar* members of the conference had their objections to the Bill. But in view of the opinion held by a large section of the House, those objections had to be overruled. As my motion is only for its reference to Select Committee, the members of the Select Committee would have ample opportunity of discussing the details and it is not necessary for me to go into details.

Babu HEM CHANDRA ROY CHOUDHURI: The Bill is the outcome of repeated demands by way of moving and discussing resolutions on the subject and introducing non-official Bills to get sales under the regulations set aside on deposit of *zamindar's* dues, purchaser's compensation, etc., within 30 days from the day of the sale on the analogy of similar provisions in the case of the civil court sales, rent sales and certificate sales. The Hon'ble Member by introducing the Bill has afforded us an opportunity to get the grievance redressed and hence he deserves our congratulations. But at the same time I would tell the House that in order to make the Bill really helpful to the *patnidars* without interfering with the rights and privileges enjoyed by the *zamindars* under the regulation, much improvement of the provisions of the Bill is needed and for the present I may enumerate some.

The right to deposit *zamindar's* dues together with certain other sums and get sales set aside has unnecessarily been denied to some of

those whose rights are affected by the sale—such as tenure-holders of the third and fourth degree, and so on, attaching creditors and some others.

The Hon'ble Sir PROVASH CHUNDER MITTER: On a point of order, Sir. Although the member is entitled to discuss questions of principle, is he entitled to go into the details which have nothing to do with the question of principle? I am drawing your attention to this, so that you may please check him.

Mr. PRESIDENT: At this stage, Mr. Roy Choudhuri, you can only discuss the principle of the Bill; you cannot discuss details further than is necessary to explain its principle.

Babu HEM CHANDRA ROY CHOUDHURI: I am not entering into details, but without going into the provisions of the Bill, it is not possible to discuss the principle. The Bill only consists of two clauses and I have to refer to them in discussing the principle.

Mr. PRESIDENT: Can't you discuss the principle without discussing the details?

5-30 p.m.

Babu HEM CHANDRA ROY CHOUDHURI: Yes, Sir, I am discussing the principles.

Secondly, clause 3 to section 14A will practically defeat the object of the Bill if it is intended to render some relief to the defaulting *patnidars*, for a *patnidar* who has allowed his *taluk* to be sold for the demand of the current year cannot be expected to clear off within such a short period all the outstanding dues of the *zamindars*, which have been allowed to accumulate by the *zamindars* themselves.

Mr. PRESIDENT: I am afraid you are again going into details which are not necessary to explain the principle of the Bill.

Babu HEM CHANDRA ROY CHOUDHURI: Not details, Sir.

Mr. PRESIDENT: You cannot question my ruling. I do not say that you cannot mention a detail to explain the principle of the Bill. What I want you to remember is that you cannot discuss the details of the Bill as elaborately as you are trying to do.

Babu HEM CHANDRA ROY CHOUDHURI: I want to place before the Council that if this Bill, as it stands, is passed into law, then some practical difficulties would arise, and one of the principles underlying this Bill is to have a sale set aside by depositing *zamindar's* claim

within [illegible] the next thing in order to set aside the sale is for the defaulting *patnidar* or other applicants to pay the arrears of rent, which might have accumulated in previous years. If I am not allowed to speak on these provisions——

Mr. PRESIDENT: You must follow the rules. Section 52(*1*) provides that at this stage, that is to say, when a Bill is being referred to a Select Committee, only the principle of the Bill can be discussed and not the details, further than is necessary to explain its principle. You are exceeding your limit.

Mr. B. C. CHATTERJEE: Let the member be included in the Select Committee.

Babu HEM CHANDRA ROY CHOUDHURI: I would refer to the principle that the applicants will have to pay arrears. That principle will not be helpful to the *patnidars* and will defeat one of the principles underlying the Bill that the defaulting *patnidar* will have a right to set aside the sale by depositing the dues within 30 days.

The Hon'ble Sir PROVASH CHUNDER MITTER: Sir, my reply is that according to Patni Regulations they must pay punctually. In the case of defaulters, the hon'ble member now wants to extend the provisions to the tenure-holders also. However, Sir, this is a Bill which we are introducing at the instance of 40 members of this House. Subject to your permission I have no objection to include the member in the Select Committee, so that he may discuss the matter there. I do not, however, want to upset the balance. There was a motion to include the Maharaja of Kasimbazar in the committee and there was another motion by Mr. Rahman which was out of time. The Select Committee has been formed in such a way that all interests may be represented on it—the *zamindars*, the *patnidars* and the members of the *Praja* party. If the House will agree, I would propose that the Maharaja of Kasimbazar on behalf of the *zamindars*, Babu Hem Chandra Roy Choudhuri on behalf of the *patnidars*, and Mr. A. F. Rahman on behalf of the *Praja* party be included in the Select Committee.

The motion that the Bill be referred to a Select Committee consisting of—

(*1*) the Hon'ble Member in charge of the Revenue Department,
(*2*) Babu Kishori Mohan Chaudhuri,
(*3*) Raja Bhupendra Narayan Sinha Bahadur, of Nashipur,
(*4*) Babu Jatindra Nath Basu,
(*5*) the Hon'ble Mr. Bijoy Prasad Singh Roy,
(*6*) Mr. Narendra Kumar Basu,
(*7*) Mr. Sarat Kumar Roy,

(8) Babu Sarat Chandra Mittra,

(9) Khan Bahadur Muhammad Abdul Momin,

(10) Khan Bahadur Maulvi Muazzam Ali Khan,

(11) Maulvi Abdul Ghani Chowdhury,

(12) Mr. H. C. V. Philpot,

(13) Babu Hem Chandra Roy Choudhuri,

(14) Maharaja Sris Chandra Nandy, of Kasimbazar, and

(15) Mr. A. F. M. Abdur-Rahman,

with instruction to submit their report by the 10th January, 1935, and that the number of members whose presence shall be necessary to constitute a quorum shall be five

was then put and agreed to.

Statement about the Calcutta Corporation.

The Hon'ble Mr. BIJOY PRASAD SINGH ROY: Sir, the House may remember that Mr. Cooper put a short-notice question about the Calcutta Corporation a few days ago and in reply to that question I stated that before the close of the session I hoped to make a statement about the Government policy in regard to the Calcutta Corporation. I wish to make that statement now with your permission.

The Council is aware that Government addressed the Corporation three separate letters regarding—

(1) the Education Department,

(2) General Administration, and

(3) Electrical schemes undertaken by the Corporation.

With regard to the last of these, the Corporation have disclaimed any intention of evading the terms of section 14 of the Calcutta Municipal Act and have given reasons in support of their view that Government have misunderstood the position. The question, therefore, now resolves itself into one of a purely technical nature which is to be decided after full examination by experts, but Government hope to arrive at a decision shortly.

As regards the other two points, the Corporation have disclaimed any responsibility for the political activities of their employees in the Education Department. This is an attitude which Government cannot accept and they intend to introduce legislation during the next session of the Council to make it perfectly clear that the Corporation shall not employ persons convicted for participating in subversive movements.

Regarding their general administration, the substance of the Corporation's reply is that Government have no right to inquire into details —a view which Government cannot accept and consider to be definitely wrong. The Corporation owe their powers to an Act which was initiated by Government, and they cannot divest themselves of responsibility for keeping in touch with the activities of the Corporation in order that they may see how that Act is working and in order that they may decide whether any change from time to time is necessary. As, however, the Council is aware, there will be a general election of the Corporation in March next; Government think it proper to afford the members of the newly constituted Corporation an opportunity of considering the whole position before they decide finally the line of action to be taken.

Prorogation.

Mr. PRESIDENT: I have it in command from His Excellency the Governor to announce that the Bengal Legislative Council stands prorogued.

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